

**5 GCA GOVERNMENT OPERATIONS
CH. 10 SUNSHINE REFORM ACT OF 1999**

**CHAPTER 10
SUNSHINE REFORM ACT OF 1999**

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**ARTICLE 1
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NOTE: The original *Sunshine Act* was passed by P.L. 18-47. P.L. 18-47 also repealed former §§ 6114, 6270 and 6271 of the Government Code. P.L. 19-5:139 repealed and reenacted the *Sunshine Law* in the form found in Article 1. P.L. 19-5:139, in repealing the whole of P.L. 18-47, also repealed the section repealing §§ 6114, 6270 and 6271 of the Government Code. The Compiler has, therefore, continued the former sections of the Government Code, once repealed but now revived, as Article 2 of this Chapter.

The Sunshine Law of 1987, enacted by P.L. 19-5:139, used Government Code section numbers already occupied by other code sections. Therefore, in the 19th Guam Legislature Session Laws, the Compiler has renumbered those sections to GC §§ 6750-6759, and those sections are again renumbered to fit within the Guam Code Annotated.

This Article was repealed and re-enacted by P.L. 25-06 and later laws of the 25th Guam Legislature.

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§§ 6114 Government Code is now in 5 GCA, Chapter 20, numbered § 20110.

§ 10101. Short Title.

This Chapter shall be known, and may be cited, as the ‘Sunshine Reform Act of 1999’.

§ 10102. Definitions.

As used in this Chapter:

(a) *Agency* means any authority of the government and includes a department, institution, board, bureau, commission, council, committee of Guam government, branch, autonomous instrumentality, public corporation funded by public taxes or funds, or other public entity of the government of Guam, whether or not it is within or subject to review by another agency.

(b) *Director* means the person directly responsible for overseeing the daily operations of an agency, or the person serving in an acting capacity as director at the time of any request for copies of public records.

(c) *Person* includes any natural person, corporation, partnership, limited liability company, firm or association.

(d) *Public records* includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency in any format, including an electronic format.

CROSS-REFERENCES: Public Law 27-18:2 (uncodified) states:

Notwithstanding any other provision of law, the Guam Economic Development and Commerce Authority shall be subject to the Freedom of Information Law and the Sunshine Information Act of 1999, 5 GCA Chapter 10, and the Open Government Law, 5 GCA Chapter 8.

§ 10103. Right of Inspection of Public Documents.

(a) Every person has the right to inspect and take a copy of any public document on Guam, *except* as otherwise expressly prohibited in law, and *except* as provided in § 10108 of this Chapter.

(b) Public records are open to inspection at all times during the office hours of the agency and every person has a right to inspect any

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public record, *except* as hereafter provided. Any segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(c) *Except* with respect to public records exempt from disclosure by express provisions of the law, each agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person, upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. Upon request, an exact copy shall be provided, *unless* impracticable to do so.

(d) Each agency, upon a request for a copy of public records shall, within four (4) working days from receipt of the request, comply with the request if the records requested are disclosable public records in the possession of the agency. *If* the records being requested partially contain information exempted from disclosure by this Chapter or by another law, the agency shall redact the exempt information only and release the non-exempt information in the records, citing the exemptions in law that require the information to be redacted. *If* the records in whole contain information *not* disclosable by this Chapter or another law, and contain no information that can be released, the agency shall notify the person requesting the records within four (4) working days from receipt of the request, and cite the exemptions in law that prohibit disclosure of the records.

(e) In unusual circumstances, the time limit prescribed in this Section may be extended up to ten (10) days, including Saturdays, Sundays and legal holidays, by written notice by the director of the agency or the director's designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. As used in this Section, *unusual circumstances* means:

(1) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; *or*

(2) the need to search for, collect and appropriately examine more than ten (10) separate and distinct records which are demanded in a single request, or records that in total, are contained

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in five hundred (500) or more pages, or contain about two hundred fifty thousand (250,000) words, whichever is more.

§ 10104. Limitation on Right of Inspection.

(a) None of the following documents may be inspected and copied pursuant to § 10103 of this Chapter, *unless* permitted by any other law of Guam:

(1) files involving the investigation of any person, real or legal, for the commission of any crime; provided, however, that this Section shall *not* affect the public or sealed nature of any documents filed with the courts in any action or proceeding;

(2) the personnel file of any employee of the government without his consent, *except* that relevant material in said file shall be open to inspection after a final decision has been rendered in any tribunal which may have jurisdiction over the subject matter in the file. All information regarding salary, and the name, and worksite mail address of each employee shall be public;

(3) tax returns and tax records, *except* for real property tax records and returns which shall be public; *and*

(4) police blotters, accident reports, daily activity logs and similar information not restricted by Subsection (a) of this Section shall be available to the public.

SOURCE: R/R by P.L. 25-06. Amended by P.L. 25-040:1.

NOTE: P.L. 25-040:1 amended this section relative to “Right of Inspection” which P.L.25-06 had enacted as *Electronic Communications* (below) together with § 10108, *Limitation on Right of Inspection*.

“§ 10104. Electronic Communications. (a) An agency shall treat an electronic mail request for public records the same as it treats paper and oral requests for records. The same deadlines apply to electronic mail requests as other requests, and to ensure that electronic requests are complied with quickly, the agency shall check its electronic mail every work day.

(b) In making any record available to a person under this Chapter, an agency shall provide the record in any form or format requested by the person *if* the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible in electronic form, through electronic mail or on computer disk.”

§ 10105. Efficient Disclosure of Records.

(a) To ensure expedient disclosure of records by an agency, the Director of an agency shall require all personnel in charge of receiving any incoming mail, electronic mail, faxed documents or other communications to immediately notify the Director or his designee upon receipt of a request for records under this Chapter.

(b) Upon receipt of a request for records under this Chapter, the Director of an agency or his designee shall immediately assign the request to be fulfilled or responded to by an employee of the agency.

(c) Each agency shall organize paper and computer files so that documents can be retrieved and copied quickly for expedient disclosure of records under this Chapter.

§ 10106. Posting Guidelines.

(a) Every agency shall establish written guidelines for accessibility of records and stating the procedures to be followed when making its records available in accordance with this Chapter. The guidelines shall include a mailing address, fax number and electronic mail address to which a person can send requests for copies of public records. The guidelines shall also include the records exempted from disclosure of which the agency is a custodian, as prescribed in Subsection (b) of this Section. A copy of these guidelines shall be posted in a conspicuous public place at the offices of each agency, and a copy of the guidelines shall be available upon request free of charge to any person requesting the agency's records. Each agency shall also make the guidelines and list of disclosable and non-disclosable documents available by computer telecommunications within one (1) year of the effective date of this Chapter.

(b) Every public officer in charge of an agency having custody of records shall, within sixty (60) days after the effective date of this Act, compile a list containing categorized descriptions of all writing in the custody of the agency which said agency considers non-public and non-disclosable as prescribed in § 10108 of this Chapter, and submit the list to the Speaker of *I Liheslaturan Guåhan* for approval by *I Liheslaturan Guåhan*. The list for each agency shall be referred by the Rules Committee to the appropriate oversight committees, which shall hold a public hearing on each list before the list is put on *I Liheslaturan*

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Guåhan's session agenda for approval. Such approved list shall be used as a guide for determination of non-disclosable records by agency employees and may be amended by *I Liheslaturan Guåhan* at any time. All documents *not* included on this list shall be considered public writings. *If* no such list is promulgated by the agency within (60) days, all documents and records shall be public *unless* non-public and non-disclosable pursuant to § 10108. If a list is *not* approved by *I Liheslaturan Guåhan* within ninety (90) days of submission thereof, it shall be deemed approved on the expiration of the ninety (90) days.

§ 10107. Annual Report.

(a) On or before February 1 of each year, each agency shall submit to the Attorney General of Guam a report which shall cover the preceding fiscal year and which shall include:

(1) the number of determinations made by the agency *not* to comply with requests for records made to such agency under § 10108 of this Chapter and the reasons for each such determination;

(2) the number of requests for records pending before the agency as of September 30 of the preceding year, and the median number of days that such requests had been pending before the agency as of that date;

(3) the number of requests for records received by the agency and the number of requests which the agency processed;

(4) the median number of days taken by the agency to process different types of requests; *and*

(5) the number of full-time staff of the agency devoted to processing requests for records under this Section, and the total amount expended by the agency for processing such requests.

(b) Each agency shall make each such report available to the public, including by computer telecommunications, or if computer telecommunications means have *not* been established by the agency, by other electronic means.

(c) The Attorney General of Guam shall make each report which has been made available by electronic means available at a single access point. The Attorney General of Guam shall notify the Legislative Secretary of *I Liheslaturan Guåhan*, no later than April 1 of the year in

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which each such report is issued, that such reports are available by electronic means.

(d) The Attorney General of Guam shall develop reporting and performance guidelines in connection with reports required by this Section by October 1, 1999, and may establish additional requirements for such reports as the Attorney General determines may be useful.

§ 10108. Limitation on Right of Inspection.

Except as provided in § 10109 of this Chapter, nothing in this Chapter shall be construed to require disclosure of records that are any of the following:

(a) Records pertaining to pending litigation to which the agency is a party, until the pending litigation has been finally adjudicated or otherwise settled.

(b) Records of complaints to, or investigations conducted by, or records of intelligence information, or security procedures or information, of an agency or its personnel.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. All information regarding salary, and the name, age, and mailing address of each employee and public official shall be public record.

(d) Information required from any taxpayer in connection with the collection of taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information, *except* that total amounts of money owed to or owed by a person, and penalties levied against and owed by a person, shall be public information and *not* exempt from disclosure.

(e) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this Subsection shall *not* apply to the records of fines imposed on the borrowers.

(f) Applications filed with any agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan

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associations, credit unions and insurance companies. The exemption in this Subsection shall *not* apply to the records of loans or securities issued by an agency, the amount of money or credit issued to a person, information about the purpose and reasons for loans or securities issued by the agency, or identifying information about the person receiving the money or credit, including name, date of birth, occupation and place of residence.

(g) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment, or academic examination. The exemption in this Subsection shall *not* apply to cumulative test scores on academic tests administered by the Department of Education, but shall apply to individual students' test scores.

(h) The home address and telephone number of any person whose occupation is subject to regulation or licensure by the government of Guam, or of any public official or government employee, unless such person gives expressed permission to disclose such information. The exemption in this Subsection shall not apply to information provided by nominated board members, directors and other officials up for confirmation by *I Liheslaturan Guåhan* [the Legislature].

(i) All existing privileges or confidential records or other information expressly protected under the law shall *not* be abrogated by this Act.

(j) Records specifically pertaining to security procedures, passwords, combinations, access codes, electronic or computer user I.D.s, policies or procedures on security.

(k) For the Department of Education information which personally identifies participants in the School Breakfast/Lunch Program, or their parents, guardians or caretakers.

(l) For the University of Guam: (i) all applicant records regarding admission, financial aid and/or scholarships, *except* that the names and majors/areas of concentration of Financial Aid recipients funded directly or indirectly, through repayments by prior recipients, by a fund of the government of Guam, including the University of Guam's Student Financial Assistance Program Fund

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shall be public information and *not* covered as private writings; (ii) closed archives of the RFT Micronesian Area Research Center, as per agreement with donor; *and* (iii) anonymity agreements regarding financial donations and other contributions made to the University only to the extent needed to protect the identity of the donor.

(m) For the Guam Police Department: (i) vice funds disbursement records; (ii) disapproved firearm permit applications; *and* (iii) investigation techniques, which if exposed, would threaten the safety of law enforcement officials and/or threaten the integrity of an investigation.

(n) For the Guam Police Department: investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

- (1) interfere with enforcement proceedings;
- (2) deprive a person of a right to a fair trial or an impartial adjudication;
- (3) constitute an unwarranted invasion of personal privacy;
- (4) disclose the identity of a confidential source and, in the case of a record compiled in the course of a criminal investigation, confidential information furnished only by the confidential source;
- (5) disclose investigative techniques and procedures; *or*
- (6) endanger the life or physical safety of law enforcement personnel.

(o) for the Department of Corrections' Internal Affairs Unit, the radio logs and tapes.

(p) For the Supreme and Superior Courts of Guam: (i) draft/working copies of bench notes, memoranda and opinions generated by the law clerks, research attorneys, judges and justices of the courts; *and* (ii) notes of the legal impressions of law clerks, attorneys, judges and justices of cases before the courts, whether pending or already resolved.

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(q) Draft documents of an Agency.

(r) For the Guam Economic Development Authority: (i) delinquency reports of loans issued by GEDA; (ii) credit reports on loan applications filed with GEDA.

NOTE: Subsection (b) amended by P.L. 25-94:04.

Subsection (i) added by P.L. 25-78:02.

Subsection (j) added by P.L. 25-78:03.

Subsection (k) added by P.L. 25-79:02.

Subsection (l) added by P.L. 25-79:03.

Subsection (m) added by P.L. 25-97:03.

Subsection (n) added by P.L. 25-97:04.

Subsection (o) added by P.L. 25-80:03.

Subsection (p) added by P.L. 25-94:02.

Subsection (r) added by P.L. 25-81:02.

Subsection (q) added by P.L. 25-82:03.

Subsection (h) amended by P.L. 25-184:2.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. P.L. 28-045:10 (June 6, 2005).

§ 10108.1. Disclosure of Privileged Information to Legislative Oversight Committee.

Any record or information which may be nondiscloseable under § 10108 that is in the possession of an agency shall be discloseable to the Legislative Oversight Committee upon its issuance of a subpoena duces tecum requesting such record or information or subpoena upon the director.

SOURCE: Added by P.L. 25-97:05.

§ 10109. Disclosure to Proper Officials.

The exemptions of records as prescribed in this Chapter shall *not* apply to public officials who prior to the adoption of this act had legal access to the records.

§ 10110. Purpose of Request Irrelevant.

This Chapter does *not* allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

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§ 10111. Court Proceedings.

(a) Any person making a request in any agency for public records pursuant to § 10103 shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of that Section.

(b) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in the Superior Court of Guam to enforce that person's right to inspect or to receive a copy of any public record or class of public records under this Chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the Court with the object of securing a decision as to these matters at the earliest possible time.

(c) Whenever it is made to appear by verified petition to the Superior Court of Guam that certain public records are being improperly withheld from a member of the public, the Court shall order the officer or person charged with withholding the records to promptly disclose the public record or show cause why the person should *not* do so. The Court shall decide the case after examining the record *in camera*, papers filed by the parties and any oral argument and additional evidence as the Court may allow. The burden is on the agency to sustain its action. All records shall be presumed public and the burden of establishing that a document or record is private shall be upon the agency or person claiming that the document on record should *not* be disclosed or inspected.

(d) *Except* as to cases the Court considers of greater importance, proceedings before the Superior Court, as authorized by this Section, and appeals therefrom, take precedence over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(e) If the Court finds that the public official's decision to refuse disclosure is *not* justified under this Chapter, the Court shall order the public official to make the record public. *If* the judge determines that the public official was justified in refusing to make the record public, the Court shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

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§ 10112. Penalties for Nondisclosure.

(a) If the Court finds that the public official's decision to refuse disclosure is *not* justified under this Chapter, the Court shall order the public official to pay a fine of One Thousand Dollars (\$1,000.00). The fine shall be a personal expense for the responsible official and in no way shall the fine be paid by the agency or the government of Guam.

(b) There is created the '*Government Ethics Fund*' to assist the Guam Ethics Commission in ensuring ethical conduct in the government of Guam. This fund shall *not* be commingled with the General fund and shall be kept in a separate bank account. Any fines collected under Subsection (a) of this Section shall be deposited in the Government Ethics Fund, are appropriated to the Guam Ethics Commission for ethical investigations, audits and analyses of financial disclosure forms. This appropriation is continuous, contingent on the annual submission of a detailed budget to *I Liheslaturan Guåhan*, not withstanding any other provision of law.

(c) Any officer or employee who acts arbitrarily or capriciously in withholding a public record from a requesting person shall be guilty of a misdemeanor.

(d) The Court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail after initial filing of the complaint pursuant to this Section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall *not* become a personal liability of the public official. If the Court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

§ 10113. Judicial Records.

The provisions of this Chapter shall *not* be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this Section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of Guam, nor to limit or impair any rights of discovery in a criminal case.

NOTE: P.L. 25-76 (11/99) added the following uncodified language:

Section 2. *Disapproval* of GEPA Proposed Guidelines. The GEPA July 12, 1999 proposed guidelines submitted pursuant to the

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requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies.

Section 3. *Disapproval* of GEPA Proposed Exemptions. The GEPA July 12, 1999 list of proposed exemptions submitted pursuant to the requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies

P.L. 25-77 added the following uncodified provisions:

Section 2. *Disapproval* of GEPA Proposed Guidelines. The GEPA July 12, 1999 proposed guidelines submitted pursuant to the requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies.

Section 3. *Disapproval* of GEPA Proposed Exemptions. The GEPA July 12, 1999 list of proposed exemptions submitted pursuant to the requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies.

P.L. 25-78:4 added the following uncodified law:

Section 4. *Disapproval* of Agency Lists. The following agencies' lists submitted pursuant to § 10106(b) of Article 1, Chapter 10 of Title 5 of the Guam Code Annotated, as repealed and reenacted by Public Law Number 25-06, are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies:

- (1) the A. B. Won Pat Guam International Airport Authority;
- (2) the Guam Mass Transit Authority;
- (3) the Guam Telephone Authority;
- (4) the Port Authority of Guam;
- (5) the Department of Administration;
- (6) the Department of Revenue & Taxation;
- (7) the Office of Public Accountability;
- (8) the Guam Housing Corporation;
- (9) the Guam Housing and Urban Renewal Authority;
- (10) the Government of Guam Retirement Fund;
- (11) the Guam Finance Commission;
- (12) Customs and Quarantine;

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- (13) the Civil Service Commission;
- (14) the Governor's Office;
- (15) the Department of Land Management;
- (16) the Department of Agriculture;
- (17) the Chamorro Heritage Institute Planning Group (now a Division of *Dipartimento I Kahao Guinahan Chamorro*);
- (18) the Chamorro Language Commission (now a Division of *Dipartimento I Kahao Guinahan Chamorro*);
- (19) the Guam Developmental Disabilities Council;
- (20) the Department of Integrated Services for Individuals with Disabilities;
- (21) the Department of Mental Health and Substance Abuse;
- (22) the Department of Public Health and Social Services;
- (23) the Guam Memorial Hospital Authority;
- (24) the Guam Museum (now a Division of *Dipartimento I Kahao Guinahan Chamorro*);
- (25) the Guam Election Commission;
- (26) the Department of Military Affairs; *and*
- (27) the Guam Council on Arts and Humanities Agency.

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

P.L. 25-79:04 added the following uncodified law:

Section 4. *Disapproval* of Agency Lists. The following agencies' lists submitted pursuant to § 10106(b) of Article 1, Chapter 10 of Title 5 of the Guam Code Annotated, as repealed and reenacted by Public Law Number 25-06, are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies:

- (1) the Department of Education;
- (2) the University of Guam;
- (3) the Guam Public Library;
- (4) the Guam Educational Telecommunications Corporation ("KGTF"); *and*
- (5) the Guam Community College.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

NOTE: P.L. 25-80:02 added the following uncodified law:

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Section 2. *Disapproval* of DOC Proposed Exemptions. The Department of Corrections' July 12, 1999 list of proposed exemptions submitted pursuant to the requirements of the Sunshine Reform Act of 1999 is hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agency.

P.L. 25-81:3 added the following uncodified law:

Section 3. Disapproval of Agency Lists. The following agencies' lists submitted pursuant to § 10106(b) of Article 1, Chapter 10 of Title 5 of the Guam Code Annotated, as repealed and reenacted by Public Law Number 25-06, are hereby *disapproved*, but shall *not* affect the limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said Agencies:

- (1) the Department of Commerce;
- (2) the Guam Economic Development Authority; *and*
- (3) the Guam Visitors Bureau

P.L. 25-82:2 added the following uncodified law:

Section 2. *Disapproval* of Agency Lists. The following agencies' lists submitted pursuant to § 10106(b) of Article 1, Chapter 10 of Title 5 of the Guam Code Annotated, as repealed and reenacted by Public Law Number 25-06, are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies:

- (1) the Guam Power Authority;
- (2) the Department of Youth Affairs;
- (3) the Department of Parks and Recreation;
- (4) the Department of Public Works;
- (5) the Guam Contractors Licensing Board;
- (6) the Bureau of Budget and Management Research;
- (7) the Guam Energy Office; *and*
- (8) the Professional Engineers, Architects and Land Surveyors Board.

P.L. 25-94 added the following uncodified sections:

Section 3. *Disapproval* of Agency Lists. The following agencies' lists submitted pursuant to § 10106(b) of Article 1, Chapter 10 of Title 5 of the Guam Code Annotated, as repealed and reenacted by Public Law Number 25-06, are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies:

1. the Agency for Human Resources Development;
2. the Department of Law;

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3. the Department of Labor;
4. the Supreme Court of Guam;
5. the Department of Youth Affairs;
6. the Public Defender Service Corporation;
7. the Superior Court of Guam; *and*
8. the Guam Fire Department.

P.L. 25-97:02 added the following uncodified section:

Section 2. *Disapproval* of GPD Proposed Exemptions. The Guam Police Department July 12, 1999 and September 3, 1999 lists of proposed exemptions submitted pursuant to the requirements of the Sunshine Reform Act of 1999 are hereby *disapproved*, but shall *not* affect the existing limitations already contained within the Sunshine Reform Act of 1999, including within § 10108, and their applicability to said agencies.

**ARTICLE 2
RECORDS**

- § 10201. Inspection of Public Records; Certified Copies.
- § 10202. Fees for Certified Copies of Public Records.
- § 10203. Charges for Copying Government Documents.

NOTE: Sections 10201 and 10202 were added by P.L. 12-34 as § 6251 and 6252, renumbered to § 6270 and § 6271, respectively, by the Editor of the 1974 Supplement to the Government Code.

Public Law 18-47:2 repealed these sections because the Sunshine Act of 1986 contained its own provision for charging fees for copies. The Sunshine Act of 1987 contains no such provision and, therefore, when P.L. 19-5:139 repealed the entire P.L. 18-47, it revived the former sections repealed by section 2 of P.L. 18-47. Thus, there remains authority to charge for copies.

§ 10201. Inspection of Public Records; Certified Copies.

Every person has a right to inspect any public writing on record in Guam and every public officer having the custody thereof is bound to permit such inspection, and to give on demand and on payment of the legal fees therefor a certified copy of such writing or record.

§ 10202. Fees for Certified Copies of Public Records.

Except when a different amount is prescribed the following fees shall be paid in advance for certified copies of public records:

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(1) for making a certified copy, \$.75 cents for the first 300 words or part thereof, and \$.15 cents for each additional 100 words or part thereof.

(2) if the record is in a foreign language, \$1.00 for each 100 words or part thereof.

(3) for comparing for certification of copy furnished by the applicant, one-half the fee for making a copy.

§ 10203. Charges for Copying Government Documents.

(a) Notwithstanding any other provision of law, no department, agency or instrumentality of the government of Guam, including all autonomous agencies and instrumentalities, shall charge another branch, department or agency of the government of Guam, including the Guam Legislature and members thereof, for copies of requested documents, so long as the documents are requested in an official capacity.

(b) Notwithstanding any other provisions of law, any department, agency or instrumentality of the Executive Branch of the government of Guam, including all autonomous agencies and instrumentalities, except for the Department of Land Management and the Department of Revenue and Taxation, may charge the media or the general public a copying fee for documents not to exceed ten cents (10¢) for the first page of any requested document, and two cents (2¢) each for any remaining pages. The Department of Land Management and the Department of Revenue and Taxation may set their charges for documents by rules and regulations pursuant to the Administrative Adjudication Law.

(c) Any department, agency or instrumentality of the Executive Branch of the government of Guam, including all autonomous agencies and instrumentalities, may choose not to charge the media or the general public a copying fee for requested documents; however, they shall not charge more than indicated in Subsection (b) of this Section.

SOURCE: GC § 6711 added by P.L. 18-40:13.

**ARTICLE 3
INFORMATION REQUIRED ON MAGNETIC MEDIA AND THE INTERNET**

SOURCE: Article added by P.L. 24-301:2.

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- § 10301. Information Required to be Made Available on Magnetic Media Format.
- § 10301.1. Information Not Stored on Magnetic Media Format.
- § 10302. Magnetic Media Defined.
- § 10303. Formats for Magnetic Media.
- § 10304. Fees and Timeframes for Information Available on Magnetic Media.
- § 10305. HomePage for Each Department or Agency of Government.
- § 10306. Information Required on Official Home Pages.
- § 10307. Formats for Home Pages.
- § 10308. Special Requirements for Telephone Directory.
- § 10309. Special Requirements for Recently Enacted Legislation.
- § 10310. Special Requirements for Property Maps in the Custody of the Department of Land Management.
- § 10311. Prohibition Against Partisan Endorsements or Detractions.
- § 10312. Special Requirement for Government of Guam Accounts with the Guam Power Authority.
- § 10313. Special Requirement for Non-Immigrant Alien Temporary Labor Certificates approved by *I Maga'lahi* (the Governor).

§ 10301. Information Required to be Made Available on Magnetic Media Format.

Any information, that is stored on or will be stored on magnetic media, available under the Freedom of Information Act, as provided for in Article 1 of this Chapter, shall be made available to the general public on magnetic media.

§ 10301.1. Information Not Stored on Magnetic Media Format.

An agency may make information, covered by Article 1 of this Chapter that is *not* stored on magnetic media, available to the general public on magnetic media and charge a fee for such service. Such fees shall be based on the cost of such services, and subject to the provisions of the Administrative Adjudication Law.

§ 10302. Magnetic Media Defined.

For purposes of this Section, magnetic media shall be defined as three and one-half inch (3.5") high-density floppy diskettes and CD ROM disks. To fulfill the requirements of § 10301 of this Article,

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Agencies only need make information that consist of computer files that total more than six (6) megabytes of information available on CD ROM. All others less than six (6) megabytes shall be available on floppy diskettes.

§ 10303. Formats for Magnetic Media.

Unless otherwise provided for herein, information shall be made available in the following formats:

(a) Written Transcripts, Rules and Regulations, Legislation and Written Text Documents: Written transcripts, rules and regulations, legislation and written text documents shall be made available in the following formats: ASCII, text and any other word processing format commonly and widely used on Microsoft and Macintosh Operating Systems.

(b) Financial Information: Lotus 123, Microsoft Excel and Corel Quattro Pro for Microsoft and Macintosh operating systems.

(c) Other Information: The individual agencies shall, under the provisions of the Administrative Adjudication Law, determine most appropriate format and make available such information on magnetic media.

Agencies may, through appropriate rules and regulations pursuant to the Administrative Adjudication Law, make information available through other formats and charge a fee for such services. If a special format is, or becomes available for personal computers or Macintosh Computers for individuals with disabilities, agencies shall make such information available in that format at no additional cost. The determination of which formats are commonly and widely used as required herein shall be determined from input from the general public at a public hearing held at least once per calendar year by each Branch of the government of Guam.

§ 10304. Fees and Timeframes for Information Available on Magnetic Media.

(a) Notwithstanding any other provision of law, no department, agency or instrumentality of the government of Guam, including all autonomous agencies and instrumentalities, shall charge another branch, department or agency of the government of Guam, including *I Liheslaturan Guåhan* and

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members thereof, for copies of requested documents, so long as the documents are requested in an official capacity.

Unless otherwise provided herein, no department, agency or instrumentality of all Branches of the government of Guam, including all autonomous agencies and instrumentalities shall charge fees in excess of Two Dollars (\$2.00) per floppy diskette, and Fifteen Dollars (\$15.00) per CD ROM; should the cost of providing such services increase, a department or agency may set their fees at a higher rate, by rules and regulations pursuant to the Administrative Adjudication Law, only to cover the additional costs. No fee shall be charged to any person who obtains public information from the Internet.

Requests for such information on magnetic media shall be made in writing to the applicable agency. Such magnetic media shall be provided to the person requesting such information within five (5) working days, excluding weekends and holidays, of the request. Payment for such services shall be made at the time of the request. Agencies may by rules and regulations pursuant to the Administrative Adjudication Law, develop appropriate timeframes for providing information in other formats *not* expressly mentioned in § 10303 of this Article.

§ 10305. HomePage for Each Department or Agency of Government.

(a) Every department *or* agency of the Executive Branch of the government of Guam, inclusive of all autonomous agencies, the Department of Education, the Guam Visitors Bureau, the Guam Economic Development and Commerce Authority, the Guam Waterworks Authority and the Guam Power Authority, *shall* develop and post on the Internet a homepage *or* website. Each homepage *or* website *shall* be designated as the official website *or* homepage for such department, agency, autonomous agency *or* public corporation and no information posted thereon *shall* be restricted by user status, passwords, *or* the assessment of dues, membership fees *or* registration fees. This Section, and §10306 of this Chapter *shall* apply to *I Liheslaturan Guåhan* as a single agency and the Judiciary of Guam as a single agency.

(b) All finalized reports, studies, and plans initiated, contracted for *or* conducted by any department *or* agency, except criminal investigative and security-related reports, studies, and plans, *shall* be posted on the agency Homepage. By January 1, 2008, copies of all such reports, studies, and plans held in the records of all departments and agencies *shall* be posted on the agency Homepage.

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SOURCE: Repealed and reenacted by P.L. 28-057:2 (June 30, 2005). Amended by P.L. 29-019:VI:88 (Sept. 29, 2007).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 10306. Information Required.

The following information must be posted, at a minimum, on each official website or homepage required pursuant to Section 10305 above.

(a) Notice of all meetings, hearings and public events as required by public law and for such duration as required by public law and containing such information as is required by public law.

(b) The official name of the department, agency, autonomous agency or public corporation in both English and Chamorro, the email address, public phone numbers, mailing address and physical location of the department, agency, autonomous agency or public corporation.

(c) The names and titles of the Director, Deputy Director or official in charge of the department, agency, autonomous agency or public corporation, as appropriate, as well as the names and titles of the administrators of each and all offices, programs, services, units or divisions under its purview, and the names of all board members of every board or commission associated with or appurtenant thereto, and an organizational chart demonstrating the relationships between all, as relevant.

(d) A list of all fees charged for any services.

(e) All rules and regulations in force as promulgated by the department, agency, autonomous agency or public corporation, or links thereto, as well as all proposed rules and regulations, or amendments thereto, as are progressing through the administrative adjudication process as detailed in the Administrative Adjudication Act.

(f) The budget for the department, agency, autonomous agency or public corporation as is in force and approved by *I Liheslaturan Guåhan* or the governing board as appropriate, as well as the proposed budget for the upcoming fiscal year, and in such

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form as is submitted to or approved by *I Liheslaturan Guåhan* or the governing board as appropriate, and all expenditures of the department, agency, autonomous agency or public corporation, such entries to be updated on a quarterly basis.

(g) The awardee, amount, duration and a general description of all contracts of any nature as entered into by the department, agency, autonomous agency or public corporation, such entries to be updated on a quarterly basis.

(h) The amount of and a general description of all grants received by the department, agency, autonomous agency or public corporation.

(i) The hours of operation of the department, agency, autonomous agency or public corporation, and all programs, units or services under its purview.

(j) A general description of the areas of responsibility of the department, agency, autonomous agency or public corporation, and all offices, programs, services, units or divisions under its purview, as well as any public reports, studies and publications as the public might expect access to under Guam law.

(k) The results of audits, or links thereto, of the department, agency, autonomous agency or public corporation, or any component or service of same.

(l) In the case of a department, agency, autonomous agency or public corporation that generates its own income through fees for services or other fees, an annual statement detailing collection and income derived from such fees.

(m) All blank applications and other forms for services, licenses, government benefits, etc., of all agencies, autonomous agencies, public corporations and instrumentalities of the government of Guam. In the event that the nature of a form or application prevents it from being posted (such as carbon copy forms), the agency *shall* state on its website the reasons that such form cannot be posted. To the extent possible and practical, the agencies *shall* make the forms available in fill-able/savable/printable Adobe portable document format (PDF). Notwithstanding the requirements, *supra*, of this Subsection; the

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Unified Judiciary *shall* within its rule-making authority determine which documents *shall* be posted on its website and the form and manner in which such documents are to be posted.

Nothing in this Section shall be construed as limiting the information that a department, agency, autonomous agency or public corporation may provide to the general public via a homepage or website.

SOURCE: Repealed and reenacted by P.L. 28-057:3 (June 30, 2005). Amended by P.L. 30-222:1 (Dec. 30, 2010). Subsections (1)-(13) re-lettered as subsections (a)-(m) by Compiler to harmoniously fit this chapter.

§ 10307. Formats for Home Pages.

There are no special requirements for the format or construction of official Home Pages. Each Branch of government shall make every possible effort to ensure that official Home Pages use text and graphics formats that can be easily loaded and read by most Web browsers. For complex documents intended for download by the general public, such documents shall be available in, but not limited to, Portable Document Format (“PDF”).

§ 10308. Special Requirements for Telephone Directory.

The Guam Telephone Authority shall, within ninety (90) days of the enactment hereof, make its annual phone directory of published numbers available on the Internet and on CD ROM. To the extent that funds allow for, the Guam Telephone Authority shall make arrangements with companies that publish national directories on the Internet for inclusion of published Guam telephone numbers on their internet directory services. CD ROM versions of the directory shall be published quarterly and made available in all database, spreadsheet and word processing formats widely and commonly used on Microsoft and Macintosh operating systems. Unlisted numbers and information on subscribers *not* included in the printed version of the directory shall *not* be included on the Internet or CD ROM versions. The version of the telephone directory published on the Internet shall be updated *not* less than once every calendar quarter.

§ 10309. Special Requirements for Legislation.

Beginning with *I Mina’Bente Kuattro Na Liheslaturan Guåhan*, all bills passed by *I Liheslaturan Guåhan* shall be posted on *I Liheslaturan*

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Guåhan's Official Home Page. Bills signed into law or vetoed by *I Maga'lahren Guåhan* shall include *I Maga'lahren Guåhan's* message. In the event a Bill becomes law either through approval of *I Maga'lahren Guåhan*, or override by *I Liheslaturan Guåhan*, the date and public law number shall also be included. Information required to be included with each bill posted on *I Liheslaturan Guåhan's* Official Home Page shall include the sponsors of the legislation and, if applicable, the score through and underline notations that reflect changes that will be made to existing law by enactment of the bill. The voting record shall be included with each bill passed or overridden by *I Liheslaturan Guåhan*.

Beginning with *I Mina'Bente Sinko Na Liheslaturan Guåhan*, all bills introduced by members of *I Liheslaturan Guåhan* shall be posted on *I Liheslaturan Guåhan's* official Home Page. New bills shall be posted within five (5) working days of the bill's introduction. The address of the official Home Page, where all bills that are introduced are posted, shall be included in all notices of public hearings.

§ 10310. Special Requirements for Property Maps in the Custody of the Department of Land Management.

Within one (1) year of the enactment hereof, the Department of Land Management shall publish a complete set of the maps of Guam in their custody on CD ROM. Existing maps in magnetic media format shall be made available pursuant to the provisions of this Article notwithstanding this one (1) year period.

§ 10311. Prohibition Against Partisan Endorsements or Detractions.

No official Home Page required herein may be used to endorse or detract from any elected official, candidate for an elected office or the platform of any elected official or candidate for elected office.

§ 10312. Special Requirement for Government of Guam Accounts with the Guam Power Authority.

Within six (6) calendar months of the enactment hereof, the Guam Energy Office *shall* publish on its website a listing of *all* government of Guam meters registered with the Guam Power Authority, and the corresponding fiscal quarterly account information that *shall* include kilowatt hours billed to, amounts billed to, a KWH consumption benchmark which reflects a reasonable target if viable energy conservation measures are implemented, amounts paid from and amounts

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due from each department, office *or* agency of the Executive Branch of the government of Guam, inclusive of all autonomous agencies, the Department of Education, the University of Guam, the Guam Community College, the Guam Visitors Bureau, the Guam Economic Development Authority, the Guam Waterworks Authority, the Guam Power Authority, *I Liheslatura* and the Judiciary. The Guam Power Authority *shall* provide all necessary information to the Guam Energy Office for the purposes of this Section. The Guam Energy Office shall monitor and make recommendations, in writing, on a quarterly basis to the respective agency heads on the energy savings alternatives, and post them on their website.

SOURCE: Added by P.L. 30-051:1 (July 14, 2009).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education.

§ 10313. Special Requirement for Non-Immigrant Alien Temporary Labor Certifications approved by *I Maga'lahi* (the Governor).

Within six (6) calendar months of the enactment hereof, the Guam Department of Labor *shall* publish and update on a quarterly basis on its website a listing of *all* temporary labor certifications issued and attested to, as of the date of the enactment hereof, by *I Maga'lahi* (the Governor) pursuant to Chapter 7 of Title 17, Guam Administrative Rules and Regulations, including the name, telephone number, and physical address of the applicant for temporary labor certification; the position title for which the application was made; the number of United States residents who applied to fill said position; the number of qualified, willing, and available United States residents who applied to fill said position; and the date said application was submitted and approved.

SOURCE: Added by P.L. 31-124:1 (Sept. 30, 2011).
