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CH. 4 PUBLIC OFFICIAL FINANCIAL DISCLOSURE

CHAPTER 4
PUBLIC OFFICIAL FINANCIAL DISCLOSURE

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§ 4101. Authority.

Pursuant to 4 GCA § 13101 and the Administrative Adjudication Law, the following rules and regulations are promulgated by the Election Commission.

§ 4102. Purpose and Scope of Rules.

(a) Purpose It is the purpose of these rules to implement the provision of 4 GCA Chapter 13 cited as the Financial Disclosure Act.

(b) Who must file. Every person who is an “official” during any portion of any calendar year must file a report under the Financial Disclosure Act during the succeeding calendar year. For purposes of this rule, the term “official” means any person elected to any public office in Guam and any person appointed, with concurrence by the Guam Legislature, to any public office to include but not limited to:

- (1) All elected officials;
- (2) Officials appointed by the Governor to boards and Commissions whose appointment is subject to consent of the Guam Legislature, except ex-officio and student members;
- (3) Chief executive officers or by whatever title they may be known, of all agencies and instrumentalities of the Government of Guam whether or not confirmation by the Guam Legislature is required; and
- (4) All individuals who are given or delegated sole authority by an elected or appointed official to enter into contracts for procurement or approved change-order. Exempt are

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classified employees who do administrative processing but do not have discretion on awards.

§ 4103. Procedures for Filing and Publication.

(a) Filing. In addition to the instructions accompanying reporting forms attached as appendices to these rules, reports required to be filed under 4 GCA Chapter 13 shall be governed by the following:

(1) When to file. An official must file a report on or before April 22 of each calendar year for the preceding calendar year. Candidates for any elected office must submit their reports on the date they file for candidacy.

(2) Where to file. Reports must be filed with the Election Commission, Suite 200 GCIC Building, Hagåtña, Guam 96910.

(3) Verification. Reports required under the Financial Disclosure Act shall be verified by oath or affirmation by the official or candidate, as prescribed by the forms attached as appendixes to these rules.

NOTE: See 6 GCA § 4308 permitting unsworn declarations under penalty of perjury.

(b) Publication. All reports, filed pursuant to the Financial Disclosure Act, shall be maintained by the Election Commission as public records, available for inspection.

(c) Copies. Copies of reports shall be furnished to the public upon request, subject to the payment of twenty-five cents (25¢) for the first page and fifteen cents (15¢) for each additional page of said report.

(d) Issuance of Certificate. The Election Commission shall issue a certificate certifying the official or candidate has filed his or her report as required by the Financial Disclosure Act.

(e) Publication by the Election Commission. On or before May 1 of every calendar year the Election Commission shall cause to have published in a Guam newspaper of general circulation for a period of three (3) consecutive days, a report containing therein the names of all officials who have not filed reports as required by the Financial Disclosure Act. It shall also publish a similar report of all candidates who

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have not filed reports as required by the Financial Disclosure Act at least fifteen (15) days preceding the election for which the candidate has filed.

§ 4104. Contents of Report.

Forms. Pursuant to 4 GCA § 13104 Forms FDA-1, Statement of Assets and Liabilities, FDA-2, Statement of Income, and FDA-3, Statement of Receipts and Disbursements, and accompanying instructions thereto, are herein incorporated as Appendices A, B, C and D, respectively, to these rules and regulations. Said appendices, not in conflict or inconsistent with 4 GCA § 13104 shall govern the contents of reports filed pursuant to the Financial Disclosure Act.

COMPILER NOTE: Appendices A through D referred to in this chapter are found in a separate publication titled “Financial Disclosure Instructions and Forms.”

§ 4105. Penalties.

(a) Failure to File. Any official or candidate who fails to file a report required by this Chapter, or who knowingly and willfully files a false report under this Chapter shall be guilty of a misdemeanor. The Guam Election Commission shall report to the Attorney General for appropriate action the name of any official or candidate who fails to file a report required by this Chapter, or who in his professional judgment has knowingly filed a false report. This section shall not be construed to permit prosecution of a person who has unintentionally filed an erroneous report, which report shall be subject to correction.

(b) Fines. Any official or candidate who fails to file a report shall be fined not more than one thousand dollars (\$1,000.00) Fines collected under this section shall be payable to the Treasurer of Guam to be deposited into the Guam Election Commission revenue account.

(c) Knowing or Willful Filing of a False Report. Any official or candidate who knowingly or willfully files a false report shall be subject to the punishment outlined in (a) and (b) in this section.

(d) Reporting of Violations. The Election Commission shall report to the Attorney General any official or candidate who has failed to file a report, or who in the professional judgment of the Guam Public Auditor has knowingly or willfully filed a false report.

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(e) Investigatory Powers. To permit the Election Commission to make a determination as required by 4 GCA § 13106 relative to the filing of false reports, the Election Commission shall have powers to investigate information contained in such reports.

SOURCE: Subsection (a), law governing 4 GCA § 13106; subsection (b), Law governing 3 GCA § 17121(h); subsection (c), law governing 4 GCA § 13106; subsection (d), law governing 4 GCA § 13106.

§ 4106. Rights of Petition and Appeal.

(a) Correction of Report. Correction of information contained in a report filed pursuant to the Financial Disclosure Act may be made at any time upon a finding by the Election Commission that the error is not the product of a knowing or willful misrepresentation or omission made in the prior report.

(b) Appeal of Findings. The appeal of any finding made by the Election Commission relative to the filing of a report may be made by an interested party.

(c) Informal Hearing. An interested party, upon written request, shall be granted an informal hearing within fifteen (15) days from receipt of such request on any matter relevant to the filing of a report.

(d) Formal Hearing. Should an informal hearing, prescribed in 4106(c) of this section, fail to resolve a matter, a formal hearing shall be granted within twenty days (20) days after the informal hearing pursuant to Article 2 of 5 GCA Chapter 9 (Administrative Adjudication).

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

(f) Public Hearing. In the event a petition made pursuant to 4106(e) of this section is granted, a public hearing on the matter shall be granted within thirty (30) days of receipt of such petition as provided by Article 3 of 5 GCA Chapter 9.

(g) Petition for Declaratory Ruling. On the petition of any interested person, the Election Commission may issue a declaratory ruling with respect to the applicability to any person, property or

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statement of facts of any rule or statute enforceable by the Commission. A petition must be in writing, and must fully state the reasons and factual bases for the petition.

(h) Hearing. Within thirty (30) days of receipt of such a petition, the Election Commission shall afford the petitioner an opportunity to fully state arguments in support of a petition.

(1) Decision. The Election Commission, within fifteen (15) days following a hearing prescribed in 4106(h) in this section shall issue a decision, which shall be binding. Such a decision is subject to judicial review, as provided for in Article 2 of 5 GCA Chapter 9.