

3 GCA ELECTIONS
CH. 7 BALLOTS

CHAPTER 7
BALLOTS

NOTE: Unless otherwise noted, all sections within this chapter were included in the original Government Code of Guam enacted by P.L. 1-088 (Nov. 29, 1952), and repealed and reenacted by P.L. 7-164 (Aug. 28, 1964). During the Fifteenth Guam Legislature, the Compiler announced that Title 3 - Elections had been added to the new, permanent Guam Code Annotated. *See* 4 Guam Sess. L. Introduction (Mar. 1981).

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§ 7101. Election Expenses.

All expenses authorized and necessarily incurred in the preparation or the conducting of elections as provided in this Title, shall be paid from appropriations by *I Lihe slaturan Guåhan* (the Guam Legislature). All payments shall be made in the same manner as are other public expenditures.

SOURCE: GC § 2250. Codified as 3 GCA § 7101. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7102. Use of Imitation or Unauthorized Ballots Forbidden.

No person shall make, use, keep or furnish to others any paper in imitation of official ballots.

SOURCE: GC § 2251. Codified as 3 GCA § 7102. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7103. Electronic Voting Machines and Voter Verified Paper Ballots (VVPB).

Electronic voting machines, on which voters shall enter their vote, and from which Voter Verified Paper Ballots shall be printed for verification of accuracy by voters before casting, shall be permitted for use in Guam elections, provided:

(a) that the electronic voting machines used in Guam elections are warranted to be accurate by the manufacturer prior to each election wherein the electronic voting machines are to be used;

(b) that precinct officials have been properly trained in the operation, basic maintenance, and replacement of supplies in electronic voting machines;

(c) that precinct officials have been properly trained in procedures, which shall be established by the Commission:

(1) to inform voters about the proper use of the electronic voting machines;

(2) to verify that a voter's ballot has been printed correctly based on each voter's choices;

(3) to properly handle spoiled ballots associated with the machines; and

(4) to place correctly printed ballots in ballot boxes;

(d) that each electronic voting machine not be networked to the internet, or to any other voting machine or computer through either wired or wireless connections;

(e) that tallies from individual electronic voting machines be recorded by hand, entered into a log, and signed by the precinct board. Such tallies shall be either included with the ballots in the ballot boxes

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to be delivered to the Election Return Center, or if tabulated on-site, be placed with the counted ballots when delivered to storage;

(f) that the on-site services of a manufacturer-authorized technician or technicians be available in Guam prior to and during each election, and until the polls have officially closed, to ensure the proper set-up and operation of the electronic voting machines; and

(g) that no electronic voting machine that prints paper ballots and also counts votes shall be procured or utilized by the Commission in any election.

SOURCE: Added by P.L. 29-033:2 (Oct. 25, 2007) as 3 GCA § 7103.1. Repealed and reenacted by P.L. 31-068:2 (May 24, 2011). Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2252, entitled "*Method of Tabulating Ballots.*" Repealed and reenacted as 3 GCA §§ 2107 (b) and (c) by P.L. 31-255:2 (Dec. 11, 2012).

§ 7104. Sample Ballots.

At least twenty (20) days before any election, the Commission shall certify to the printer the sample ballot with the names of the nominees thereon in the same order and manner as they will appear on the official ballot, and immediately thereafter cause a true copy of the same to be published at least once in a daily paper of general circulation. The ballot, as published, shall be identical to that used for voting, except for the substitution of the word "Sample" where the word "Official" shall appear upon the election ballot, and may be reproduced for voter instruction in colors contrasting with official ballots.

SOURCE: GC § 2253. Codified as 3 GCA § 7104. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7105. Order of Names on Ballot - *Lihselatura* (Legislature).

(a) The Commission shall prepare the ballot in such a manner that a nominee's name appears under the name of the political party, if any, sponsoring such nominee.

(b) Each candidate for any office under a party or independent designation shall be listed according to lots drawn and conducted by the Election Commission. All drawings for ballot position shall be done publicly, and persons appearing on the ballot shall be specifically invited to

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attend. The drawings for ballot placement shall be conducted after the deadline to file candidacy and the identities of the persons to appear on the ballot is known to the Election Commission.

(c) The names of the nominees shall appear in columns vertically in such order as determined by the lots drawn. Those nominees already holding the office for which they are seeking re-election shall have the word “Incumbent” printed immediately after their names.

SOURCE: GC § 2254. Amended by P.L. 13-176 (Aug. 2, 1976). Codified as 3 GCA § 7105. Amended by P.L. 31-059:2 (May 24, 2011). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

2016 NOTE: Subsection designations were added to adhere to the Compiler’s codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 7106. Order of Names for Other Offices.

The Commission shall prepare all ballots for all elections on Guam. All such ballots shall contain the names of nominees for other offices in a similar manner as for *I Liheslaturan Guåhan* (the Guam Legislature).

SOURCE: GC § 2255. Codified as 3 GCA § 7106. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7107. Presidential Election.

The ballot for the general election in each year evenly divisible by four (4) shall contain the names of the nominees for President and Vice-President of the United States of each national political party which has made such nominations. In addition, any team of candidates which has been placed on the ballot of any state of the United States may have their names placed on the ballot as independent candidates, or as candidates of the party for which they are on the ballot in that state. If the candidates wish to be placed on the ballot, they may request such placement no later than September 1 of each election year.

SOURCE: GC § 2255.1. Added by P.L. 15-049 (July 4, 1979). Amended by P.L. 15-132:17 (July 2, 1980). Codified as 3 GCA § 7107. Amended by P.L. 25-146:67 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7108. Space for Marking Ballot; Space for Write-in Candidates.

(a) Immediately adjacent to the name of each nominee or adjacent to the word “Incumbent,” as the case may be, shall be placed ovals or other defined

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spaces of sufficient size for the placing of a mark therein. A clear and distinct mark within the oval or other space provided adjacent to the name of any nominee or candidate shall be counted as a vote for that nominee or candidate.

(b) For each office on a ballot, except the Guam Education Board, the Commission shall provide a line, or lines, with an oval or other defined space to mark to permit votes to be cast for write-in candidates. If the name written in by a voter adequately identifies the write-in candidate, the vote shall be valid for that candidate; provided, that the voter has also filled in or darkened the adjacent oval or other defined space that is to be marked.

SOURCE: GC § 2256. Amended by P.L. 12-149:8 (June 19, 1974). Codified as 3 GCA § 7108. Amended by P.L. 25-146:31 (June 12, 2000). Subsection (b) amended by P.L. 28-150:V:35 (Sept. 30, 2006), effective, election date of 2008, pursuant to P.L. 28-150:V:38. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7109. Ballots Furnished to Precincts.

For each election, the Commission shall determine the number of ballots to be provided to each precinct.

SOURCE: GC § 2257. Amended by P.L. 12-149:9 (June 19, 1974). Codified as 3 GCA § 7109. Amended by P.L. 25-146:32 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7110. Correction of Error or Omission.

Whenever it appears by affidavit of a voter or nominee that an error or omission has occurred in the publication of the name or description of any nominee or in the printing of the ballot, the Superior Court of Guam, or a judge thereof, shall, upon application of the affiant, by order, require the Commission to correct the error, or to show cause why the error should not be corrected.

SOURCE: GC § 2258. Amended by P.L. 12-149:10 (June 19, 1974). Codified as 3 GCA § 7110. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7111. Delivery of Ballots, Machines and Supplies.

The Commission shall, before the opening of the polls at any election, cause to be delivered to the precinct board of each precinct where an election is to be held, the proper number of ballots, voting machines if they are to be utilized, the voter registration roster for that precinct, and all other documents and supplies to be used in that precinct. The ballots shall be delivered in sealed packages, with marks on the outside clearly designating

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the precinct or polling place for which they are intended, and the number of ballots enclosed.

SOURCE: GC § 2259. Amended by P.L. 12-149:11 (June 19, 1974). Codified as 3 GCA § 7111. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7112. Receipts for Ballots.

The Commission shall cause to be prepared a receipt for each polling place, enumerating the packages and stating the time, day and date when they were delivered to the precinct board leader. The precinct leader shall sign the receipt upon receiving the packages, which shall forthwith be returned and filed. The Commission may employ such persons as may be necessary to ensure the security and safe and expeditious delivery of the ballots to the precinct boards and fix a reasonable compensation for their services, to be paid as other election expenses are paid.

SOURCE: GC § 2260. Codified as 3 GCA § 7112. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7113. Loss or Destruction of Ballots.

In case of the prevention of an election in any precinct by the loss or the destruction of the ballots intended for that precinct, the precinct leader or other member of the board for that precinct, shall prepare an affidavit stating forth the fact, and shall immediately transmit it to the Commission. Upon receipt of the affidavit, the Commission may, and upon the application of any nominee for any office to be voted for by the electors of that precinct, order a new election in that precinct.

SOURCE: GC § 2261. Codified as 3 GCA § 7113. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7114. Instructions to Voters.

At the top of the ballot, there shall be printed instructions to the voters as to the number of nominees to vote for, the marks to be used, including a sample of the marks, and other such instructions as the Commission deems necessary.

SOURCE: GC § 2262. Codified as 3 GCA § 7114. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7115. Nicknames, Other Identifiers on Ballot.

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Any person who is a candidate for any office may, at the time of filing his or her nominating petition, or, thereafter, as the Commission by uniform regulations may prescribe, file with the Commission a request that his or her name be further identified on the ballot by the addition of an identifying word or phrase not derogatory or obscene and not exceeding twenty (20) letters, in which event it shall be the duty of the Commission to so comply. The Commission shall have the authority on its own motion and in its discretion to so identify names on the ballot in accordance with regulations set forth in the Election Manual.

SOURCE: GC § 2263. Codified as 3 GCA § 7115. Amended by P.L. 18-042:12 (Aug. 8, 1986). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 7116. Security of Ballots.

(a) The Commission shall promulgate and publish in the Election Manual rules and regulations pursuant to the Administrative Adjudication Law to ensure maximum security of the ballots and assure the integrity of the election process.

(b) The rules shall provide, at the minimum:

(1) that each box that will contain cast ballots be locked and sealed from the time the first ballot is cast into each ballot box until their opening at the Election Return Center after polls close;

(2) that all precinct board members accompany the ballot boxes at all times to the Election Return Center after the polls close, and also accompanied by at least one (1) Police Officer; and

(3) that government of Guam buses be utilized to transport the ballot boxes, the precinct board members and the Police Officers to the Election Return Center; and

(4) that any private security services hired by the Commission shall not be with a security company which employs an individual who is a sibling or related in the first degree of consanguinity, or has any business ownership relation with a nominee who is seeking an elected public office.

(c) Only an official designated by the Commission may unlock and open ballot boxes at the Election Return Center.

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SOURCE: Added by P.L. 25-146:33 (June 12, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012). Subsection (a) amended by P.L. 33-148:14 (Apr. 15, 2016), codified as subitem (1) by the Compiler.

2016 NOTE: Subsection/subitem designations were added/alterd to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

2012 NOTE: In the 2005 publication of the GCA, this section was entitled "*Rules for Security of Ballots.*"

In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

§ 7117. Ballot Audit.

Within forty-five (45) days from the enactment of this Act, the Guam Election Commission shall conduct an audit and reconciliation of the ballot stock ordered, printed, utilized, retained, and destroyed in the conduct of the 2010 General Election, and subsequent Primary and General Elections. The results of the audit shall be posted on the Commission's website.

SOURCE: Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally added by P.L. 25-146:45 (June 12, 2000), entitled "*Security of Ballots.*" In the 2005 publication of the GCA, this section was entitled "*Physical Security of Ballots.*"

§ 7118. 2010 General Election Ballot Review.

(a) The Guam Election Commission shall conduct a review of all absentee ballots received, and all provisional ballots for the 2010 General Election, within forty-five (45) days of the enactment of this Act. In conducting this review the Commission shall:

(1) Determine which provisional ballots were not accepted in the 2010 election because the voter was not on the registration rolls, but should have been counted because the voter was purged from the rolls without due process as required by statute, and then conduct a count of the votes cast if those ballots had been accepted.

(2) Count the votes cast in all absentee ballots received by the Guam Election Commission for local elections that were received in the same manner and timeframe as applied to federal elections in accordance with 42 U.S.C. §§ 19673ff-1(a)(8).

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(3) Determine the impact of the results on the counts of provisional and absentee ballots required by this Section on all 2010 election races for all offices, including a determination as to whether any candidate meets the “50% plus 1” requirement stipulated in the Organic Act of Guam.

(b) Inasmuch as the Guam Election Commission has recognized that there were machine errors in the count of the 2010 General Election Results, within thirty (30) days from the enactment of this Act, the Guam Election Commission shall conduct an audit of all the results of the 2010 General Election.

(c) All results obtained from audits of the 2010 General Election shall be published on the Guam Election Commission website and distributed to all island media outlets.

SOURCE: Added by P.L. 31-255:2 (Dec. 11, 2012).
