

3 GCA ELECTIONS
CH. 2 ELECTION COMMISSION

CHAPTER 2
ELECTION COMMISSION

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§ 2101. Election Commission: Composition; Removal of Members; Chairman; Quorum.

(a) There is within, as an autonomous instrumentality and an independent commission of the government of Guam, the Election Commission. The Commission shall consist of seven (7) members, all of whom shall be eligible voters on the date of their appointment. *I Maga'lahaen Guåhan* [Governor] shall appoint six (6) members from recommendations made by the recognized political parties of Guam. Each of the recognized political parties, via a duly passed resolution, shall recommend an equal number of names to *I Maga'lahaen Guåhan* and the six (6) members appointed by *I Maga'lahaen Guåhan* shall be appointed so that the recognized political parties are equally represented. If at any time there are more than three (3) recognized political parties, the six (6) members appointed by *I Maga'lahaen Guåhan* shall be appointed so that no more than two (2) of such members shall be members of the same recognized political party. One (1) member shall be selected and appointed by the six (6) members appointed by *I Maga'lahaen Guåhan*. The appointment of the seventh member of the Commission shall be concurred in by at least four (4) members. The members shall serve for a term of two (2) years. If a vacancy should occur on the Commission, said vacancy shall be filled for the remainder of the term only, and by the method originally prescribed for its appointment. No member may be an elected official of the government nor a candidate or nominee for an elected office within the government.

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(b) Every member of the Commission shall be paid in accordance with 5 GCA § 43104, *Uniform Compensation for Boards and Commissions*.

(c) Any appointed member may be removed for misconduct in office by a resolution duly adopted by a vote of two-thirds (2/3s) of the members elected and serving in *I Liheslaturan Guåhan* [Legislature]. At the written request via a duly passed resolution of the state central committee of any political party that has recommended the appointment of a member, *I Maga'láhen Guåhan* [Governor] immediately shall remove such member from the Commission. The seventh member chosen by the six (6) politically recommended members may be removed upon a vote by five (5) of the politically appointed members. Any vacancy resulting from the provisions of this Paragraph shall be filled as provided in Paragraph (a).

(d) A majority of the members of the Commission shall constitute a quorum and no action of the Commission shall be authorized, except upon a vote of four (4) of the members.

(e) By majority vote the Commission shall elect annually a Chairman from among its members. The term of the Chairman shall expire on the last day of June.

SOURCE: GC § 2050 reenacted by P.L. 11-202. R/R by P.L. 25-146:3.

§ 2102. Executive Director, Appointment Of; Ex Officio Secretary of the Commission; Salary Of.

(a) The Commission shall appoint an Executive Director. Said Executive Director shall administer the election law of Guam and shall perform and discharge all of the powers, duties, purposes, functions and jurisdiction hereunder, or which hereafter by law may be vested in the Commission in accordance with the rules of the Commission, and subject to the right of appeal to the Commission.

(b) The Executive Director shall be the ex officio secretary for the Commission, but shall not be a voting member thereof. As such secretary, the Executive Director shall keep the minutes of the Commission's proceedings, preserve all reports made to it, keep a record of all examinations held under its direction, and perform such other duties as the Commission shall prescribe.

(c) The Executive Director shall be a member of the unclassified service and shall receive an annual salary within a range of compensation to be prescribed by the Commission in accordance with the laws of Guam.

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Said Executive Director shall serve at the pleasure of the Commission; provided, however, that the Executive Director may not be removed, unless that person's removal is concurred in by four (4) Commission members.

SOURCE: GC § 2050.1 added by P.L. 11-202; amended by P.L. 12-38. Amended by P.L. 25-146:4.

§ 2103. Election Commission, Duties and Responsibilities Of; Audit Report; Rule-Making Authority.

(a) The Commission shall have direct and immediate supervision over the municipal and district officials designated in accordance with the laws of Guam to perform duties relative to the conduct of elections. The Commission may suspend from the performance of said duties any of said officials who shall fail to comply with its instructions, orders, decisions or rulings, and appoint temporary substitutes; and the Commission shall remove any such officials who shall be found guilty of nonfeasance or misfeasance in connection with the performance of their duties relative to the conduct of elections.

(b) The Commission shall designate such subordinate officers and employees as may be necessary for the efficient performance of its functions and duties, each of whom, if not already employed by the government, shall receive a salary to be determined in accordance with the laws of Guam.

The Board may retain an attorney who shall be admitted to practice before the courts of Guam, who shall advise the Board and its executive officer on all legal matters pertaining to the Commission. The designated counsel shall represent the Commission in litigation in which the Commission is interested or involved. The terms, conditions and compensation of employment of any such attorney shall be determined by the Board, and the attorney shall serve at the pleasure of the Board.

(c) As early as is reasonably possible, but not later than June 30 in each odd-numbered year, the Commission shall prepare and deliver an annual report to *I Magsa'lahen Guåhan*, the Speaker of *I Liheslaturan Guåhan*, the Chair of the legislative committee with jurisdiction over matters of elections, showing, with respect to the preceding fiscal year:

(1) recommendations of the Commission as to amendments or supplementation of laws affecting elections or the office of the Commission; and

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(2) statistical information regarding the elections conducted during the fiscal year.

(d) The Commission shall promulgate rules pursuant to 5 GCA Chapter 9 necessary and convenient to carry out the provisions of this Title.

(e) Relative to electronic voting machines, the Commission *shall*:

(1) determine, through extensive testing and development of comprehensive training procedures, that all GEC staff employees to be situated at polling sites on each election day will be properly trained to demonstrate, operate and monitor the operations of the machines;

(2) develop an island-wide education program to inform and demonstrate to voters the proper use of such machines, and *shall* ensure such education program is tested on an actual election day or days to determine the education program's effectiveness;

(3) facilitate the conduct of tests to determine the integrity of the machines with an independent entity or organization as deemed appropriate by the Commission; and

(4) provide the results and analysis of such testing, training and education required in this subitem (e) to *I Maga'lahen Guåhan* and *I Liheslaturan Guåhan*, and wherever necessary *shall* promulgate rules as required in subitem (d) of this § 2103.

SOURCE: GC § 2051 amended by P.L. 11-202. Amended by P.L. 25-146:5. Subsection (e) added by P.L. 29-033:1 (Oct. 25, 2007).

§ 2104. Election Manual.

It shall be the duty and responsibility of the Commission to prepare a public manual of administrative procedures, rules, regulations and forms to be used in the conduct of elections. After January 1, 2001, all manuals and publications shall be prepared pursuant to the Administrative Adjudication Law. The manual shall set forth the regulations to be followed by all election officials, as well as the descriptions of the necessary equipment and forms to be used in election procedures.

SOURCE: GC § 2052. Amended by P.L. 25-146:6.

§ 2105. Same: Provisions of Forms.

It shall be the responsibility of the Commission to provide all necessary forms as described in the Election Manual for the conduct of elections.

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SOURCE: GC § 2053.

§ 2106. Powers of the Commission.

(a) The Commission shall have the power to summon the parties to a controversy pending before it, issue subpoenas duces tecum, and otherwise to take testimony in any investigation or hearing pending before it and delegate such power to any officer. Any controversy submitted to the Commission shall be tried, heard and decided within ten (10) days counted from the time the corresponding petition giving rise to said controversy is filed. The Commission shall have the power to certify to the Superior Court of Guam for contempt. No witness fee shall be paid to a person subpoenaed in that person's capacity as a government employee or agent of the Commission.

(b) The Commission may sue and be sued in its name.

(c) The Commission may take such action as is necessary or appropriate to the carrying out of its powers and duties as specified in this Title, or as may be otherwise imposed upon the Commission by law.

SOURCE: GC § 2054 as amended. Amended by P.L. 25-146:7.

§ 2107. Placement on Ballot.

No person shall be placed on the ballot for election to any public office unless the Commission has determined that said person possesses the qualifications for the office for which that person is a candidate.

SOURCE: GC § 2055, added by P.L. 7-164; repealed by P.L. 11-202; current section added by P.L. 12-149. Current section bears no relationship to the subject matter of former sections having the same number -- quorum of the Commission. Amended by P.L. 25-146:8.

§ 2108. Same: The Chamorro Registry and Advisory Board.

It shall be the responsibility of the Election Commission to administer the Chamorro Registry with the advice of the Chamorro Registry Advisory Board. It shall also be the duty of the Commission to consider for approval the content of other informational brochures issued by the Board, with the approval to be submitted for consideration by the Governor. When a controversy is brought up and heard before the Board, the Commission shall serve as an appellate board for any ruling rendered by the Board.

SOURCE: Added by P.L. 23-103:3.

§ 2109. Detailed Budget Requests.

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GEC's annual budget submission for election years must provide a detailed breakdown of the funding level necessary to meet all of their statutory requirements and abide by all policies and procedures set forth in their rules and regulations.

SOURCE: Added by P.L. 31-061:4 (May 24, 2011), as an uncodified permanent law.
Codified by Compiler.
