

**3 GCA ELECTIONS
CH. 10 ABSENT VOTING**

**CHAPTER 10
ABSENT VOTING**

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within this chapter were included in the original Government Code of Guam enacted by P.L. 1-088 (Nov. 29, 1952), and repealed and reenacted by P.L. 7-164 (Aug. 28, 1964).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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§ 10101. Conditions Upon the Right to Vote.

Any qualified voter of Guam may, as provided in this Chapter and subject to the conditions of this Section, vote in any election by absentee ballot if he or she will be prevented from personally going to the polls and voting on election day because

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of:

- (a) the conduct of his or her business or necessary travel;
- (b) illness or physical disability;
- (c) service in the Armed Forces or Merchant Marine of the United States;
- (d) employment with the government of Guam;
- (e) attendance at an institution of learning;
- (f) employment in the service of the United States or any federal agency; or
- (g) accompanying a spouse who is engaged in any activity listed herein.

SOURCE: GC § 2451. Repealed and reenacted by P.L. 12-117:11 (Mar. 28, 1974). Codified as 3 GCA § 10101. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10102. Application for Ballot.

(a) Except as provided herein under Subsection (b), any voter, under any of the circumstances specified in § 10101 may, not less than three (3) days, or, if application is made in person, not later than during the regular office hours of the day prior to any election, make application to the Commission for an official ballot to be voted at such election. Any such application shall be made in writing on a form furnished by the Commission.

(b) A person classified under § 10101(b) may request an application for absentee ballot, and the absentee ballot, by telephone any time prior to the closing of the polls on election day.

(c) An application submitted for the primary election shall be considered an application for the subsequent general election.

SOURCE: GC § 2452. Codified as 3 GCA §10102. Amended by P.L. 18-041:5 (Aug. 8, 1986). Subsection (c) added by P.L. 21-100:7 (Mar. 31, 1992). Subsection (a) amended by P.L. 22-109:6 (Apr. 1, 1994). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10103. Application Form for Absentee Ballot.

(a) Application for an absentee ballot shall be made substantially in the following form:

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**“APPLICATION FOR ABSENTEE BALLOT TO BE VOTED
AT THE ELECTION ON GUAM ON THE
_____ DAY OF _____, 20____ District
or Municipality _____.**

I, _____ (Print or type full name)
_____, do solemnly swear that
I am a resident of Guam and of the district or municipality
of _____, and that I am a duly
qualified elector entitled to vote at said election; that I am
not voting in any other jurisdiction; that I understand the
prohibitions against and the penalty for voting in any
election of Guam if I vote in another U.S. jurisdiction; that
my occupation is _____; and that on account of
_____, I cannot be at the polls on
election day; I hereby make application for an official ballot
to be voted by me at such election, and that I will return said
ballot to the office of the Guam Election Commission
before the time of the closing of the polls on election day.

SIGNED _____

DATED this _____ day of _____, 20_____.

(Permanent Mailing Address)

Full Name:

Address:

Date of Birth:

(Present Mailing Address)

Full Name:

Address:

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Date of Birth:

Subscribed and sworn to before me this ____ day of
_____, 20__.

Print or Type Full Name

Signature

Title or Rank

Mailing Address _____

_____”

(b) Any application from elsewhere other than Guam shall be fully completed and documented in accordance with Election Commission regulations that applicant is entitled to vote under the provisions of this Chapter.

(c) Any applicant who fails to complete and document his or her application for a ballot in accordance with Commission regulations shall be denied a ballot, and his or her name will be stricken from the register of qualified voters in accordance with Chapter 3 of this Title.

SOURCE: GC § 2453. Repealed and reenacted by P.L. 12-149:20 (June 19, 1974). Codified as 3 GCA § 10103. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10104. Absent Voting -Federal Requirements.

(a) Armed Forces or absentee application. A voter who (1) is eligible for an absentee ballot; (2) wants to execute an affidavit or form for voter registration; and (3) is absent from Guam or is an active member of the Armed Forces of the United States, including National Guard or Reserve Units, or an overseas voter as defined by the Federal Uniformed and Overseas Citizens

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Absentee Voting Act, is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such an oath administrator. The Commission shall inform the voter that no signature other than that of the voter is required on the affidavit or form and that a voter who makes a false statement on the affidavit or form is subject to the penalties of perjury.

(b) Federal postcard application. In lieu of the application form prescribed in this Title, any person serving in the U.S. Armed Forces or the United States Merchant Marine, or who is a spouse or dependent of such a person, and any person who temporarily resides outside the territorial limits of the United States and its territories, may apply for registration and enrollment on the Federal postcard application form provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (100 Stat. 924; 42 U.S.C. 1973 F.F. et seq., as amended) or any other applicable law. The failure of an applicant to take the elector's oath on such Federal postcard application shall not invalidate such application.

SOURCE: GC § 2453(a), entitled "*Substantial compliance—Armed Forces application.*" Codified as 3 GCA § 10104. Repealed and reenacted by P.L. 22-109:7 (Apr. 1, 1994). Amended by P.L. 25-146:44 (May 27, 2000). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10105. Penalty Clause Added.

Immediately below the form prescribed by § 10103, there shall be printed in full § 10124 of this Chapter, and § 8306 of Chapter 8.

SOURCE: GC § 2454. Codified as 3 GCA §10105. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10106. Applicant Outside of Guam.

When the Commission is requested to mail an absent voter's ballot to an elector, and the address to which said ballot is to be mailed is a point outside of Guam, the Commission shall mail the absent voter's ballot to the elector by airmail as soon as the request is received, provided that the ballots are printed, and, if by any law of the United States official election ballots may be mailed without the payment of postage, it shall so comply.

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Absentee ballots shall be mailed or transmitted by email to absentee voters in the manner requested, within forty-eight (48) hours of request or within forty-eight (48) hours, except Sundays, of certification of the ballots, whichever is later.

SOURCE: GC § 2455. Codified as 3 GCA § 10106. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10107. Early In-Office Absentee Voting.

Notwithstanding the conditions prescribed in § 10101 of this Chapter, the Commission shall deliver a ballot to any qualified voter applying in person at the office of said Commission; provided, however, that such applicant shall complete and subscribe the application and affidavit heretofore prescribed in this Section; provided further, that said application shall be made not more than thirty (30) days nor less than five (5) days before the date of the election for which the vote is being cast. It is provided further, that said ballot shall be immediately marked, enclosed in the ballot envelope, placed in the return envelope with the proper affidavit enclosed, and immediately returned to the Commission.

(a) The Early In-Office Absentee Voting application shall contain all of the following:

(1) voter's full name, date, and mailing address;

(2) one (1) of the following identifiers:

(A) the Guam driver's license number or Guam identification card number of the applicant issued by the Department of Revenue and Taxation, Motor Vehicle Division; or

(B) the last four (4) digits of the applicant's social security number;

(3) a declaration, under penalty of perjury, stating that the voter resides within the district in which he or she is voting, that he or she is a duly qualified elector entitled to vote at the said election; that he or she is not voting in any other jurisdiction; that he or she understands the prohibitions against and the penalty for

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voting in any election of Guam if he or she votes in another U.S. jurisdiction; and

(4) the signature of the voter and date of signing.

(b) The Early In-Office Absentee Voting Affidavit Envelope shall contain all of the following:

(1) voter's full name, district, date of birth, place of birth, and method by which U.S. citizenship was attained; and

(2) a declaration, under penalty of perjury, stating that the information provided relating to his or her qualifications for registration and voting are true; that he or she is a duly qualified elector entitled to vote at said election; that he or she is not voting in any other jurisdiction; that he or she understands the prohibitions against and the penalty for voting in any election of Guam if he or she votes in another U.S. jurisdiction; that he or she understands that voting twice constitutes a crime; and

(3) the following witness certification, "Subscribed and sworn to before me this ___ day of _____, 20___, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that the affiant then, in my presence and of no other person, and in such manner that I could not see his or her vote, mark such ballot and enclosed and sealed the same in this envelope; and that the affiant was not solicited or advised by me for or against any candidate or measure," which shall be executed by an election official appointed or designated by the Commission.

SOURCE: GC § 2456. Amended by P.L. 11-209:14 (Dec. 22, 1972). Codified as 3 GCA § 10107. Amended by P.L. 18-041:4 (Aug. 8, 1986). Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012). Amended and renamed by P.L. 36-041:1 (July 20, 2021).

2021 NOTE: Prior to being amended and renamed by P.L. 36-041:1 (July 20, 2021), this provision read as follows:

§ 10107. Personal Delivery of Ballot.

The Commission shall deliver a ballot to any qualified elector applying in person

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at the office of said Commission; provided, however, that such applicant shall complete and subscribe the application heretofore prescribed by this Chapter; provided further, that said application shall be made not more than thirty (30) days nor less than one (1) day before the date of the election for which the vote is being cast. It is provided further, that said ballot shall be immediately marked, enclosed in the ballot envelope, placed in the return envelope with the proper affidavit enclosed, and immediately returned to the Commission.

§ 10107.1. Homebound Voting.

The Commission shall deliver a ballot to any qualified elector classified under § 10101(b) of this Chapter applying in person or by telephone; provided, however, that such applicant shall complete and subscribe the application heretofore prescribed in § 10103 of this Chapter; provided further, that said application shall be made not more than thirty (30) days before the election for which the vote is being cast. It is provided further, that said ballot shall be immediately marked, enclosed in the ballot envelope, placed in the affidavit envelope, and immediately returned to the Commission.

SOURCE: Added by P.L. 36-041:2 (July 20, 2021).

§ 10108. Form of Absentee Ballot.

The absentee ballot may, but need not be, in the same form as the regular ballot used in the election. For off-island absentee voters, uniformed and overseas citizens voting absentee, the Commission shall inform such absentee voters of the option to request to receive an absentee ballot electronically by email transmission and provide electronic mail and cost-free telephonic contact information to such voters so that those voters may make the request to the Guam Election Commission.

Absentee ballots shall be mailed or transmitted by email to absentee voters in the manner requested, within forty-eight (48) hours of request or within forty-eight (48) hours, except Sundays, of certification of the ballots, whichever is later.

SOURCE: GC § 2456(a), added by P.L. 11-209:13 (Dec. 22, 1972). Codified as 3 GCA § 10108. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10109. Furnishing of Envelopes and Affidavit With Ballot.

It shall be the duty of the Commission to furnish the absentee

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voter with a blank ballot in an unmarked ballot envelope. Except for a uniformed or overseas voter as defined by the Uniformed and Overseas Citizens Absentee Voting Act, the Commission shall also furnish the absentee voter with a voter's affidavit and an unsealed return envelope, bearing upon its face the following:

“Guam Election Commission
Government of Guam
P.O. Box BG
Hagåtña, Guam 96932”

On the reverse side of the return envelope shall be printed the voter's full name and the municipality in which the absentee voter is a resident.

SOURCE: GC § 2457. Repealed and reenacted by P.L. 11-209:15 (Dec. 22, 1972). Codified as 3 GCA § 10109. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10110. Voter's Affidavit on Envelope.

On the reverse side of the envelope prescribed in § 10109 shall be printed a blank form of an affidavit in substantially the following form:

“AFFIDAVIT

District _____ or _____ Municipality
of _____, Guam

I, _____, do solemnly swear
that the

(Print or type full name) following matters
relating to my qualifications for registration and voting are
true:

Place of Residence: _____ (municipality,
municipal, division or district), Guam.

Date of Birth: _____
(Month/Day/Year)

Place of Birth: _____

Method of which United States citizenship was attained:

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Qualified voter: _____ (yes or no)

That I am not confined to a mental institution or judicially declared incompetent; that I am not serving a criminal sentence; that I am not voting in any other U.S. jurisdiction; that I am in the business/work of _____; and that I shall be absent from the polls on the day of election on account of _____.

Signature

Subscribed and sworn to before me this ____ day of _____, 20____, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that the affiant then in my presence and of no other person, and in such manner that I could not see his vote, mark such ballot and enclosed and sealed same in this envelope; and that the affiant was not solicited or advised by me for or against any candidate or measure.

Print or type full name

Signature

Title or Rank”

SOURCE: GC § 2458. Amended by P.L. 11-209:16 (Dec. 22, 1972); P.L. 12-149:21 (June 19, 1974). Codified as 3 GCA § 10110. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10111. Marking Ballot.

Except for a uniformed or overseas voter as defined by the Uniformed and Overseas Citizens Absentee Voting Act, the voter, on receipt of said ballot, shall, in the presence of the officer administering the oath and of no other person, mark such ballot or set of ballots, but in such manner that said officer would not see or know how said ballot is marked.

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SOURCE: GC § 2459. Codified as 3 GCA § 10111. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10112. Taking and Subscribing Oath.

Except for a uniformed or overseas voter as defined by the Uniformed and Overseas Citizens Absentee Voting Act, after marking said ballot the voter shall, before said officer, mark and subscribe to the voter's affidavit, and, in the presence of said officer, place said ballot in the ballot envelope so as to conceal the marks thereon and deposit the same along with the affidavit in the return envelope which shall then be securely sealed.

SOURCE: GC § 2460. Repealed and reenacted by P.L. 11-209:17 (Dec. 22, 1972). Codified as 3 GCA § 10112. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10113. Officers Before Whom Voter May Appear.

Except for a uniformed or overseas voter as defined by the Uniformed and Overseas Citizens Absentee Voting Act, at any time on or before the day of an election an absentee voter may appear before the Commission, or any person appointed or designated by the Commission may go to any voter on Guam if he or she is incapacitated, or any Notary Public or any officer of Guam, or before any Notary Public or any officer of any state, territory or municipality within the United States or in the District of Columbia, at the time of receiving his or her ballot to mark and secure his or her ballot.

SOURCE: GC § 2461. Amended by P.L. 12-149:22 (June 19, 1974); P.L. 12-166:1 (Sept. 9, 1974). Codified as 3 GCA § 10113. Repealed and reenacted by P.L. 31-255:2 (Dec. 11, 2012).

§ 10114. Mailing or Delivering Ballot(s).

The sealed returned envelope containing the ballot or set of ballots may be delivered to the Commission at its main office or its postal address at any time prior to the closing of the polls, and within ten (10) days after any election and by 5:00 p.m. on the tenth (10th) day after any election.

SOURCE: GC § 2463. Repealed and reenacted by P.L. 12-149:23 (June 19, 1974). Codified as 3 GCA § 10115. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

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2012 NOTE: This section was originally codified from GC § 2462, entitled "*Officers or Persons Before Whom a Member of the Armed Forces May Mark His Ballot.*" Repealed by P.L. 31-255:2 (Dec. 11, 2012).

§ 10115. Disposition of Ballot by Commission.

The returned envelope containing the ballot or set of ballots and affidavit, together with the voter's application, shall be delivered by the Commission on election day to the precinct board or member thereof of the precinct in which the voter is qualified to vote. The Commission staff shall ensure that the affidavit fully meets the criteria for absent voting prior to delivery to the precincts. The member of the precinct board receiving such ballot and application shall acknowledge to the Commission receipt thereof in writing.

SOURCE: GC § 2464. Amended by P.L. 11-209:19 (Dec. 22, 1972). Codified as 3 GCA § 10116. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2463, entitled "*Mailing or delivering of ballot.*" Reenacted as 3 GCA § 10114 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10116. Ballots Rejected by the Commission.

All ballots forwarded to absent voters and not physically received by the Commission at its main office prior to the closing of the polls, or within ten (10) days after any other election day or by 5:00 p.m. on the tenth (10th) day after any election shall be rejected.

SOURCE: GC § 2466. Repealed and reenacted by P.L. 12-149:24 (June 19, 1974). Codified as 3 GCA § 10118. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2464, entitled "*Disposition of ballot by Commission,*" which was reenacted as 3 GCA § 10115 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10117. Casting Ballots.

At any time between the opening and closing of the polls on election day, the precinct board shall announce the absent voter's name, and compare the signature between that shown upon the application and the signature upon the affidavit. The precinct board shall determine if the affidavit is sufficiently executed, that the signatures correspond, that the applicant is a duly qualified

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elector of the precinct, and that the applicant has not voted in person at such election, and open the outer or carrier envelope and the return envelope. The board shall then deposit the unopened ballot envelope in the ballot box. Upon depositing the unopened ballot envelope in the ballot box, the board shall indicate on the signature roster next to the voter's name that such voter has voted absentee.

SOURCE: GC § 2467. Amended by P.L. 11-209:20 (Dec. 22, 1972). Codified as 3 GCA § 10119. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012)

2012 NOTE: This section was codified from GC § 2465, entitled "*Manner of Preserving Ballot and Application.*" Repealed by P.L. 31-255:2 (Dec. 11, 2012).

§ 10118. Causes for Rejecting Ballots.

In the event the affidavit is found to be insufficient, or the signature on the affidavit and the application do not correspond, or the applicant is not a duly qualified elector in such precinct, or the ballot envelope or return envelope is open or has been opened and resealed, or the return envelope contains more than one (1) ballot envelope with ballots enclosed, or that said voter has voted in person, such ballot shall not be accepted or deposited in the ballot box.

SOURCE: GC § 2468. Amended by P.L. 11-209:21 (Dec. 22, 1972). Codified as 3 GCA § 10120. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2466, entitled "*Ballots rejected by Commission.*" Reenacted as 3 GCA § 10116 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10119. Rejected Ballots.

Every ballot not accepted shall be endorsed on the back of the ballot envelope "Rejected because _____ (giving reason therefore)." All such rejected ballots shall be enclosed and securely sealed in an envelope on which the precinct board members shall endorse "Defective Ballots," with a statement of the precinct in which, and the date of the election at which, the ballots were cast. Said envelope shall be signed by the members of the precinct board and returned to the Commission at the Election Return Center after the polls close.

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SOURCE: GC § 2469. Amended by P.L. 11-209:22 (Dec. 22, 1972). Codified as 3 GCA § 10121. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2467, entitled "*Casting ballots.*" Reenacted as 3 GCA § 10117 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10120. Addition to Registration Index.

The precinct board shall, when the absentee ballot envelope is deposited in the ballot box, enter the absentee voter's name on the registration index if not already shown on the roster.

SOURCE: GC § 2472. Codified as 3 GCA § 10123. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2468, entitled "*Causes for rejecting ballots.*" Reenacted as 3 GCA § 10118 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10121. Challenges.

The vote of any absent voter may be challenged for cause, and the precinct board shall determine, in accordance with the provisions of this Title, the legality of such ballot.

SOURCE: GC § 2474. Codified as 3 GCA § 10124. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2469, entitled "*Rejected ballots.*" Reenacted as 3 GCA § 10119 by P.L. 31-255:2 (Dec. 11, 2012).

§ 10122. Ballot of Deceased Voter.

When it shall be made to appear by due proof to the precinct board that any absent voter who has submitted his or her ballot in accordance with the provisions of this Chapter has died before the ballot is deposited in the ballot box, the ballot envelope of such deceased voter shall be endorsed, "Rejected: Voter Deceased" and shall be returned unopened with the ballot enclosed by the precinct board to the Commission. The casting of a ballot of a deceased voter shall not invalidate the election.

SOURCE: GC § 2475. Amended by P.L. 11-209:36 (Dec. 22, 1972). Codified as 3 GCA § 10125. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2470,

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entitled "*Return of envelopes with rejected ballot.*" Repealed by P.L. 31-255:2 (Dec. 11, 2012).

§ 10123. Penalty for False Affidavit.

Any person who willfully swears falsely to any affidavit prescribed in this Chapter shall be punishable in accordance with the provisions of Chapter 8 of this Title.

SOURCE: GC § 2476. Amended by P.L. 13-187:45 (Sept. 2, 1976). Codified as 3 GCA § 10126. Repealed and reenacted to this section by P.L. 31-255:2 (Dec. 11, 2012).

2012 NOTE: This section was originally codified from GC § 2472, entitled "*Addition to registration index.*" Reenacted as 3 GCA § 10120 by P.L. 31-255:2 (Dec. 11, 2012).
