

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

**CHAPTER 10
ABSENT VOTING**

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NOTE: GC § 2450 relative to requiring the liberal construction of the Chapter, was repealed by P.L. 12-117.

§ 10101. Conditions Upon the Right to Vote.

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

- (a) The conduct of his business or due to other necessary travel, or
- (b) Illness or physical disability, or
- (c) Service in the Armed forces or Merchant Marine of the United States, or
- (d) Employment with the territory of Guam, or
- (e) Attendance at an institution of learning, or
- (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 (a-f), above.

SOURCE: GC § 2451, as reenacted by P.L. 12-117.

§ 10102. Application for Ballot.

(a) Except as provided in subsection (b), any voter, under 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 close 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, amended by P.L. 18-41:5. Added by P.L. 18-41:5. Subsection (c) added by P.L. 21-100:7 (3/31/92). Subsection (a) amended by P.L. 22-109:6 (04/01/94).

§ 10103. Form of Application Blank.

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

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**"APPLICATION FOR BALLOT TO BE VOTED AT THE
_____ ELECTION ON THE _____ DAY OF
_____, 19 _____**

State or Territory of _____

County of Municipality _____ SS

I, _____, do solemnly swear that I am a resident of the Territory 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 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 Commission before the time of the closing of the polls on election day.

SIGNED _____

DATED this ____ day of _____, 19____

(Permanent Mailing Address)

NAME _____

CI or Soc. Sec. No _____

(Present Mailing Address)

NAME _____

Date of Birth _____

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Subscribed and sworn to before me this _____ day of _____,
19__.

SIGNATURE

NAME _____

(Print or Type name, title, rank)

MAILING ADDRESS _____

_____ "

(b) Any application from outside the territory of Guam must document in accordance with Election Commission regulations that applicant is entitled to vote under provisions of this Chapter.

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

SOURCE: GC § 2453, as reenacted by P.L. 12-149.

§ 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 a member of the Armed Forces of the United States, 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 Armed Forces of the United States Merchant Marine, or who is a spouse or dependent of such a

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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 will not invalidate such application.

SOURCE: GC § 2453(a), added by P.L. 7-164. Repealed/reenacted by P.L. 22-109:7 (04/01/94). Amended by P.L. 25-146:44.

§ 10105. Penalty Clause Added.

Immediately below the form prescribed by § 10103, there shall be printed in full §§ 10126 and 10127 of this Chapter.

SOURCE: GC § 2454.

§ 10106. Applicant Outside the Territory of Guam.

Whenever 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 the territory of Guam, he shall mail the absent voter's ballot to the elector by airmail, and, if by any law of the United States, official election ballots may be mailed without the payment of postage, it shall do so.

SOURCE: GC § 2455.

§ 10107. Personal Delivery of Ballot.

The Commission shall deliver a ballot to any qualified elector applying in person 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) nor less than one (1) day before the date of the election for which the vote is being cast. And 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.

SOURCE: GC § 2456, as amended by P.L. 11-209 and amended by P.L. 18-41:4.

COMMENT: Compare § 10102 relative to dates for application for absentee ballots. Presumably, the earlier date prescribed by § 10102 applies to persons to whom ballots must be mailed.

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

Signed _____

Subscribed and sworn to before me this ____ day of _____, 19 ____, and I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that he then in my presence and in the presence 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; that the affiant was not solicited or advised by me for or against any candidate or measure.

(Official Title)

SOURCE: GC § 2458, as amended by P.L. 12-149.

§ 10111. Marking Ballot.

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 ballots, but in such manner that said officer would not know how said ballot is marked.

SOURCE: GC § 2459.

§ 10112. Taking and Subscribing Oath.

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, as reenacted by P.L. 11-209.

§ 10113. Officers Before Whom Voter May Appear.

At any time on or before the day of an election an absent 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 the territory 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, in which he may at the time of

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receiving his ballot or any officer of a United States embassy or consulate authorized to administer oaths, to mark his ballot.

SOURCE: GC § 2461, as amended by P.L. 12-166.

§ 10114. Officers or Persons Before Whom a Member of the Armed Forces May Mark His Ballot.

If a voter is a member of the Armed Forces of the United States, the Merchant Marine of the United States or civilian outside Guam officially attached to and serving with the Armed Forces of the United States, he may appear, either within or without the territorial limits of the United States to mark his absent voter's ballot before any commissioned officer, warrant officer or non-commissioned officer of a grade not lower than sergeant or equivalent rating of the Armed Forces of the United States; or before any commissioned officer of the Merchant Marine of the United States; or before any minister, consul or vice-consul of the United States, if he is unable to go to his polling place or before the Commission of the territory of Guam.

SOURCE: GC § 2462.

§ 10115. Mailing or Delivering Ballot.

The sealed returned envelope containing the ballot may be delivered to the Commission at its main office at any time prior to the closing of the polls on election day. If not so delivered, said envelope shall be mailed, postage pre-paid, directly to the Commission in sufficient time to reach the Commission prior to the closing of the polls on election day.

SOURCE: GC § 2463, as reenacted by P.L. 12-149.

§ 10116. Disposition of Ballot by Commission.

The returned envelope containing the ballot 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 member of the board receiving such ballot and application shall acknowledge to the Commission receipt thereof in writing.

SOURCE: GC § 2464, as amended by P.L. 11-209.

§ 10117. Manner of Preserving Ballot and Application.

Upon receipt of such ballot and application, the precinct board or member thereof shall enclose the same in a large carrier envelope, securely

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seal said envelope and endorse thereon, over his official signature, the following:

(a) Name of the members of the precinct board of the precinct in which the voter is a resident.

(b) Location of the polls at which such board will hold the election in said precinct.

(c) The following statement: "This envelope contains an absent voter's ballot and must be opened only at the polls on election day while said polls are open."

SOURCE: GC § 2465.

§ 10118. 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 on election day shall be rejected.

SOURCE: GC § 2466, as reenacted by P.L. 12-149.

§ 10119. Casting Ballots.

At any time between the opening and closing of the polls on election day, the precinct board shall open the outer or carrier envelope and the return envelope, announce the absent or disabled voter's name, and compare the signature upon the application with the signature upon the affidavit. In case the precinct board shall find the affidavit is sufficiently executed, that the signatures correspond, that the applicant is a duly qualified elector of the precinct, and that the applicant has not voted in person at such election, the board shall deposit said ballot in the unopened ballot envelope in the ballot box.

SOURCE: GC § 2467, as amended by P.L. 11-209.

§ 10120. Causes for Rejecting Ballots.

In case 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.

SOURCE: GC § 2468, as amended by P.L. 11-209.

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§ 10121. Rejected Ballots.

Every ballot not accepted shall be endorsed on the back of the ballot envelope "REJECTED BECAUSE _____ (giving reason therefor)." 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.

SOURCE: GC § 2469, amended by P.L. 11-209.

§ 10122. Return of Envelopes With Rejected Ballot.

If the ballot is rejected, the ballot envelopes shall be returned with such rejected ballot with the affidavit of voter in the envelope endorsed "DEFECTIVE BALLOTS".

SOURCE: GC § 2470, as amended by P.L. 11-209.

NOTE: Section 2471, relative to an affidavit constituting registration, was repealed by P.L. 12-149.

§ 10123. Addition to Registration Index.

The precinct board shall, in case the ballot is deposited in the box, enter the voter's name on the registration index if not already there and roster.

SOURCE: GC § 2472.

NOTE: Section 2473, as amended by P.L. 11-209 was repealed by P.L. 12-149.

§ 10124. 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.

NOTE: GC § 2474.

§ 10125. 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 ballot in accordance with the provisions of this Chapter has died before the ballot is deposited in the ballot box, then the ballot envelope of such deceased voter shall be endorsed, "REJECTED BECAUSE VOTER IS DEAD" and shall be returned unopened with the ballot enclosed by the precinct board to the

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Commission; but the casting of a ballot of a deceased shall not invalidate the election.

SOURCE: GC § 2475, as amended by P.L. 11-209.

§ 10126. Penalty for False Affidavit.

Any person who shall willfully swear falsely to any affidavit prescribed in this Chapter shall be punished in accordance with the provisions of §14102 of this Title.

SOURCE: GC § 2476, as amended by P.L. 13-187:45; section number change to conform with this codification.

§ 10127. Refusal or Neglect to Return Ballot: Penalty.

Any person who, having procured an official ballot, shall willfully neglect or refuse to cast or return the same in the manner as provided in this Chapter, or who shall wilfully violate any provision of this Chapter, shall, unless otherwise provided, be guilty of a violation and be fined not to exceed One Hundred Dollars (\$100.00). Any person who applies for an absent voter's ballot and wilfully neglects or refuses to return the same shall be deemed to have committed such offense in the territory of Guam.

SOURCE: GC § 2477, as amended by P.L. 13-187:46.

§ 10128. Offenses by Officers.

If any precinct board member, Election Commission member, or other election official charged with any duty prescribed by this Chapter shall refuse or neglect to perform any such duty, or shall violate any of the provisions hereof, he shall be guilty of a petty misdemeanor.

SOURCE: GC § 2478, as amended by P.L. 13-187:47.

§ 10129. Early Voting Service to the Community.

[Repealed.]

SOURCE: Added by P.L. 29-032:2 (Oct. 25, 2007). Repealed by P.L. 31-058:2 (May 24, 2011).
