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CH. 16 CONDUCT OF PRIMARY ELECTIONS

CHAPTER 16
CONDUCT OF PRIMARY ELECTIONS

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§ 16101. Definitions.

The words and phrases in this Chapter shall, unless the same be inconsistent with the context, be construed as follows:

- (a) *Commission* means the Election Commission.
- (b) *Election* means a general election as distinguished from a primary election or a special election.
- (c) *Election official* means one of the inspectors or judges serving on the several precinct boards as set out in § 4104 of this Code.
- (d) *Office* means an elective public office.
- (e) *Party* means an association of voters united for the purpose of promoting a common political policy which maintains a general organization throughout the Territory, including a regularly constituted

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central committee and precinct committee, and as further defined in §1111 of this Code.

(f) *Precinct* means a district as defined in 1 GCA § 403

(g) *Primary* means a preliminary election in which voters nominate candidates for office as provided for in this Chapter.

(h) *Primary ballot* means a party ballot or a non-partisan ballot used at a primary.

SOURCE: GC § 2900 added by P.L. 10-151. Unless otherwise noted, all sections within this Chapter were added by P.L. 10-151, effective June 24, 1970.

NOTE: The law reference to *Precincts* has been changed to its proper GCA source. During the enactment of Title 1, GCA, the municipal boundaries were placed in the General Provisions part of this Code and removed from that portion (5 GCA Chapter 40) dealing with Mayors.

§ 16102. Liberal Construction.

This Chapter shall be liberally construed in favor of the primary voter.

SOURCE: GC § 2901

§ 16103. Application of General Election Laws.

The laws relating to elections shall apply to a primary insofar as they are consistent with this Chapter, the intent of this being to place the primary under the regulation and protection of the election laws, as far as possible, consistently with this Chapter.

SOURCE: GC § 2902

§ 16104. Application of Chapter.

A candidate for office, except for judicial office, shall be nominated in accordance with this Chapter and not otherwise. This Chapter shall apply to special and local elections, except as otherwise provided by law for special or local primary elections.

SOURCE: GC § 2903

§ 16105. Party Represented by Whom.

Not less than thirty (30) days before the holding of a primary, each party seeking ballot placement shall submit to the Commission a list of officers of its central committee.

SOURCE: GC § 2904

§ 16106. Expenses of Printing Paid by Whom.

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The expense of ballots, blanks and other supplies to be used at any primary, and other expense properly incurred in the preparation for or conducting of the primary, shall be borne by the government of Guam.

SOURCE: GC § 2905

§ 16107. Expense of Polling Places, Ballot Boxes and Election Officials.

The Commission, at the expense of the Government, shall provide the necessary polling places and ballot boxes for conducting an election for nomination of candidates for office. The Commission, at the expense of the Government, shall pay election officials for their services in conducting a primary at the same rate of compensation as provided by law for an election.

SOURCE: GC § 2906

§ 16108. Primary Elections Cancelled When Unnecessary.

(a) When the Commission determines that all political parties that have qualified for placement on the primary ballot have:

(1) the same or fewer number of candidates running for nomination to the Legislature than the number of senatorial seats allowed in law, it shall cancel such Primary Election for the Legislature because of the lack of any contest; or

(2) only one (1) set of candidates running for Governor or Lieutenant Governor, it shall cancel such primary election for the gubernatorial team because of the lack of any contest; or

(3) only one (1) candidate running for mayor or vice mayor in a particular municipal district, it shall cancel such primary election for mayor or vice mayor because of the lack of any contest.

(b) Certification of candidates. Following such cancellation, the Commission shall certify all candidates who qualified to appear on the ballots in such cancelled primary elections for placement on the general election ballot as candidates of their respective political parties for the general election. The drawing for placement of names on the ballots for the primary election, if undertaken, shall control the placement of names on the ballots for the general election.

SOURCE: Added by P.L. 22-129:2 (5/31/94). Amended by P.L. 27-101:2 (6/30/04); P.L. 28-128:6 (June 27, 2006). Repealed and reenacted by P.L. 29-102:5 (July 22, 2008).

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§ 16109. Vacancies Not to Be Filled.

In the event that fewer than fifteen (15) candidates are running for *I Liheslaturan Guåhan* [Guam Legislature] within any party, the central committee of such party or parties may not fill up the party slate for the primary or general election to a full fifteen (15) nominees with its own nomination by filling those positions which are unfilled because fewer than fifteen (15) candidates ran in that party's primary election.

SOURCE: Added by P.L. 22-12932 (5/31/94). Amended by P.L. 25-146:61.

§ 16110. Minimum Vote Required.

No person shall be deemed nominated in a primary election unless the candidate receives votes at least three (3) times greater than the required number of signatures needed for a petition for candidacy for such election, or votes equal to four percent (4%) of the total number of persons who obtain ballots to vote in that primary election for all parties, whichever is less.

SOURCE: Added by P.L. 22-129:4 (05/31/94).

ARTICLE 2
NOMINATION; DETERMINATION OF CANDIDATES

- § 16201. Primary Date.
- § 16202. Notice of Primary; Publication, Posting.
- § 16203. Form of Nomination Papers.
- § 16204. Nomination Papers: Qualifications of Signers.
- § 16205. Nomination Papers -- Number of Signers.
- § 16206. Time for Filing Nomination Papers; Fees.
- § 16207. Independent Candidates.
- § 16208. Vacancies.

§ 16201. Primary Date.

The primary shall be held at the regular polling place or places in each precinct on the first Saturday of September in every even-numbered year.

SOURCE: GC § 2910 as amended by P.L. 12-119; and by P.L. 13-32.

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§ 16202. Notice of Primary; Publication, Posting.

At least thirty (30) days before the time for holding the primary, the Commission shall prepare and transmit to each municipal commissioner a notice in writing designating the office for which candidates are to be nominated at the primary, and state the time when, and the place where, the primary shall be held.

The Commission shall, within ten (10) days after transmitting the notice to the municipal commissioners, cause notice of the primary to be posted in three (3) conspicuous public places in each of the municipal districts of Guam and to be published at least three (3) times in a newspaper of general circulation in Guam. The notice shall state the time when, and place where, the primary shall be held, together with the offices for which candidates are to be nominated and elected.

SOURCE: GC § 2911

§ 16203. Form of Nomination Papers.

The name of no candidate shall be printed upon any official ballot to be used at any primary election unless a nomination paper shall have been filed in his behalf and in his legal name, as provided in this Chapter in substantially the following form:

NOMINATING PETITION (PARTISAN)

We, the undersigned, registered and qualified electors of the territory of Guam, hereby nominate _____(NAME OF CANDIDATE)

_____(MAILING ADDRESS)_____

as a candidate of the _____ party for the office of _____, to be voted for at the primary election held on the _____ day of _____, 19 _____.

WARNING

Whoever knowingly signs more petitions for the same office than there are persons to be elected to the office or signs a name other than his own is violating the provisions of the Guam Election Code.

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Name: Mailing Address: Date of Signing: Mo/Day/Year

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he is qualified to circulate this petition, that each signature on the petition was signed at his presence, that to his best knowledge and belief each signature is the genuine signature of the person purporting to sign the same, and that the person was at the time of signing a registered as qualified voter of the territory of Guam, and that such elector was qualified to sign the petition.

(Signature of Circulator)

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(Address)

(Date)

All nomination papers shall have substantially the above form written or printed thereon; provided, that those filed for an independent candidate may omit the words "of the _____ party." No signature shall be counted unless it is written upon a sheet having this form written or printed thereon which shall be provided by the Commission.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall nomination papers be filed in behalf of any person both as a party candidate and as an independent candidate.

SOURCE: GC § 2912

§ 16204. Nomination Papers: Qualifications of Signers.

No person shall sign the nomination papers of more than one (1) candidate for the same office, nor for more than the actual number of offices of one (1) class. Nomination papers shall be construed in this regard according to priority of filing, and the name of any person appearing thereon shall be counted only so long as this provision is not violated, and not thereafter.

No name on nomination papers shall be counted, unless the signer is an elector, qualified and registered to vote for the candidate at the next primary or general election.

SOURCE: GC § 2913

§ 16205. Nomination Papers -- Number of Signers.

(a) No person shall be certified as a candidate for nomination unless the following number of qualified electors shall have signed a petition in favor of the candidate:

OFFICE	NUMBER OF SIGNATURES
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Mayor	100
Vice Mayor	100
Senator	250
I Maga'lahaen [Governor] and I Segundu na Maga'lahaen [Lt. Governor]	500
Delegate to Congress	500

(b) When there are candidates for the mayoral or vice-mayor positions in jurisdictions that had less than one thousand (1000) total votes cast in the prior election, the mayoral and vice-mayor candidates in these jurisdictions must acquire five percent (5%) of the qualified electors based from the prior election.

SOURCE: GC § 2914. *Commissioner and Assistant Commissioner changed to Mayor and Vice Mayor pursuant to P.L. 20-33 (09/06/89). Reference to the Elected School Board added for consistency by Compiler. See 17 GCA § 3106 (amended by P.L. 22-42). Reference to elected student member of the Board added by Compiler. See 17 GCA § 3105(b) (amended by P.L. 22-42). Amended by P.L. 25-146:62 to reflect the current (2000) candidates who require nomination papers.*

§ 16206. Time for Filing Nomination Papers; Fees.

Nomination papers shall be filed with the Commission at least sixty (60) days prior to the day for holding the primary. There shall be deposited with each nomination a fee of One Hundred Dollars (\$100.00) on account of the expenses attending the holding of the primary which shall be paid into the treasury of Guam. Upon the receipt at the office of the Commission of a nomination of a candidate, the day, hour and minute when it was received shall be endorsed thereon.

SOURCE: GC § 2915, as amended by P.L. 18-30:50.

§ 16207. Independent Candidates.

Nomination papers may be filed on behalf of independent candidates. The papers shall be similar in form and signed in the manner as in the case of party candidates, and no nominator shall sign any petition who has previously signed a petition for the same primary for a partisan candidate.

SOURCE: GC § 2916.

§ 16208. Vacancies.

In case of the death, withdrawal or disqualification of a nominee for Governor after a primary, the candidate for Lieutenant Governor on the same slate shall thereupon become candidate for Governor, and shall then select the nominee for Lieutenant Governor. In the case of the death,

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withdrawal or disqualification of any nominee for Lieutenant Governor after a primary, the nominee for Governor on the same slate shall select the nominee for Lieutenant Governor. In case of the death, withdrawal or disqualification of any nominee for any other office after a primary, the vacancy so caused shall be filled by the nominee to such office receiving the next highest number of votes in the primary. In case of the death, withdrawal or disqualification of any candidate for office after an unopposed primary, the vacancy so caused shall be filled by the central committee of the party.

SOURCE: GC § 2917.

ARTICLE 3
BALLOTS

§ 16301. Form of Primary Election Ballot.

§ 16301. Form of Primary Election Ballot.

Ballots used in the Primary Election shall be in the form prescribed by the Guam Election Commission and shall conform to the following minimum requirements:

(a) All candidates for all offices to be contested in the forthcoming General Election *shall* appear on a Primary Ballot to be voted upon by voters in each voting district. A voting district is each district within Guam as defined in 1 GCA § 403, *unless* otherwise provided in this Title. The Guam Election Commission *shall* publish a ballot with the names of all qualified candidates from the Republican Party on one (1) side of the ballot, and the names of all qualified candidates from the Democratic Party on the opposite side. This ballot format *shall* be used to limit voters to casting votes in only one (1) party for all offices in that Primary Election;

(b) Across the top of the ballot shall be printed the words "OFFICIAL PRIMARY ELECTION BALLOT" and the date of the Primary Election;

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(c) Thereafter shall appear an explanation to the voter instructing him how to vote;

(d) There *shall* appear specific instructions in boldface type on each ballot that a voter may cast votes for candidates appearing on that ballot for one (1) party *only*; that if votes are cast for candidates of more than one (1) party for any office or nomination of offices appearing on the ballot, the entire ballot *shall* be void. The instructions on the ballot *shall* clearly indicate that voters are allowed to cast votes in only one (1) party for all offices in that Primary Election, and *shall not* cast votes on more than one (1) side of the ballot. Any ballot wherein votes are cast for more than one (1) party for all offices in that Primary Election shall be void;

(e) The ballot for each office for which party nominations are sought *shall* contain instructions to the voters as to the maximum number of candidates that may be selected for that office; that party's candidates for nomination for each office *shall* be listed on the ballot in random order in a manner similar to that established for General Election Ballot listing and placement;

(f) The Guam Election Commission shall make accommodation for the voter to write in the name of a person or persons not otherwise appearing on the ballot, under each office being contested under each party heading;

(g) Should the Guam Election Commission adopt a ballot form using any mechanical, electro-mechanical, or electronic device to record the vote, or aid in recording the vote, the information required by this Section shall appear on the device in the place provided therefore, or otherwise prominently within the voting booth so as to be easily read by the voter.

SOURCE: GC § 2920; Subsection (b) amended by P.L. 11-209, eff. 01/01/73; Subsection (f) amended by P.L. 10-161; amended by P.L. 12-149; Subsection (g) amended by P.L. 11-209; R/R by P.L. 18-30:52. Subsection (l) added by P.L. 18-40:30. Section amended by P.L. 27-101:3 to reflect the rule of “no crossover” now applies to all offices. Subsection (a) amended by P.L. 31-059:3 (May 24, 2011). Subsection (d) amended by P.L. 31-059:4 (May 24, 2011). Subsection (e) amended by P.L. 31-059:5 (May 24, 2011).

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ARTICLE 4
VOTING AND ASCERTAINING THE VOTING RESULTS

- § 16401. Persons Entitled to Vote; List of Electors.
- § 16402. Manner of Voting.
- § 16403. Challenging.
- § 16404. Result of Election, Governor and Lieutenant Governor; Other Offices; Primary Constituting Election to Office.
- § 16405. Validity of Ballot.

§ 16401. Persons Entitled to Vote; List of Electors.

No person shall be entitled to vote at any primary unless he shall have registered as a duly qualified elector of the territory of Guam.

SOURCE: GC § 2930, added by P.L. 10-151.

§ 16402. Manner of Voting.

Any person desiring to vote at a primary shall state his name and residence to the election officials. If the person desiring to vote is not challenged, one of the officials shall give to him one and only one official primary ballot. The voter shall proceed to one of the compartments provided and therein mark the ballot. The marked ballot shall immediately be placed in the ballot box provided. In addition, the provisions of Chapter 10 of this Title (Absent Voting) shall also apply to a primary election so as to permit voting by absentee ballot therein.

SOURCE: GC § 2931, added by P.L. 10-151; amended by P.L. 10-161.

§ 16403. Challenging.

Any person rightfully in the polling place may challenge the right of any person requesting to vote. The challenge shall be on the grounds that the elector is not the person alleged to be, that the elector is not entitled to vote on the grounds specified in §9119 of this Title. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the election officials, a ruling of the majority thereof being final

SOURCE: GC § 2932, added by P.L. 10-151. Amended by P.L. 25-146:63.

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§ 16404. Result of Election, Governor and Lieutenant Governor; Other Offices; Primary Constituting Election to Office.

(a) The Governor and Lieutenant Governor team receiving a plurality of votes cast for a partisan nomination shall be the party nominees. No Governor and Lieutenant Governor team running in the independent column shall be eligible for general election ballot placement unless such team receives at least twenty percent (20%) of the total combined votes cast for the winning teams seeking partisan nomination.

(b) The winner in all other primaries shall be the candidate receiving the greatest number of votes except that no candidate running in the independent column shall be eligible for general election ballot placement unless he receives votes equal to at least ten percent (10%) of the total number of the valid ballots cast for the office for which he is a candidate.

(c) If in any primary, a candidate is the only candidate for an office, or if he is only opposed by a candidate within his own column, whether it be partisan or independent, and he is nominated at the primary, the Commission shall thereafter declare such candidate to be duly and legally elected to the office for which he is a candidate, regardless of the number of votes received by him.

(d) *Except* in the case of a gubernatorial team, if in any primary a candidate who has been certified as being nominated (i) submits to the Board a written declination of his or her nomination or (ii) dies, the Board shall certify as nominated the person having the next highest number of votes in the same primary; *provided*, that the Board determines that the addition of the newly certified candidate to the ballot shall **not** prevent the Board from conducting the general election at the scheduled date and time. If the Board in its discretion determines that time does not permit the addition of the new nominee to the ballot, the vacancy shall be filled as otherwise provided by law. In the case of the death of a nominee for Governor or Lieutenant Governor, the vacancy shall be filled as provided by law.

SOURCE: GC § 2933, reenacted by P.L. 12-119; Subsection (b) amended by P.L. 14-140:21. Subsection (d) added by P.L. 22-109:14 (04/01/94).

§ 16405. Validity of Ballot.

All questions as to validity of a ballot cast at any primary election held under this Chapter shall be decided immediately, and the opinion of the

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majority of the Commission shall be final and binding, subject to review by the Superior Court of Guam.

SOURCE: GC § 2934

COMMENT: See Comment to § 3117.

ARTICLE 5
ELECTION CONTESTS

- § 16501. Petition to Contest.
- § 16502. Filing of Petition.
- § 16503. Summons.
- § 16504. Hearing and Judgment.

§ 16501. Petition to Contest.

Any candidate directly interested, or any registered and qualified elector of any precinct, may file a petition in the Superior Court of Guam, setting forth any cause or causes why the decision of the Commission should be revised, corrected or changed.

SOURCE: GC § 2935

COMMENT: See Comment to § 3117.

§ 16502. Filing of Petition.

The petition shall be filed in the Superior Court of Guam within seven (7) days following the primary election proposed to be contested.

SOURCE: GC § 2936

COMMENT: See Comment to § 3117.

§ 16503. Summons.

The clerk of the Superior Court shall issue a summon to the respondents named in the petition to appear before the Superior Court within five (5) days after thereof.

SOURCE: GC § 2937

COMMENT: See Comment to § 3117.

§ 16504. Hearing and Judgment.

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The Court shall hear the contest in a summary manner, and at the hearing, the Court shall cause the evidence to be reduced to writing, and shall within eight (8) days following the return, give judgment, fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the matter presented by the petition, and a certified copy of the judgment shall forthwith be served on the Commission, which shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general election, and the judgment shall be conclusive of the right of the candidate so declared to be nominated.

SOURCE: GC § 2938

ARTICLE 6
PENALTIES

§ 16601. Part of Election Laws.

§ 16602. Bribery.

§ 16603. Separability.

§ 16601. Part of Election Laws.

This Chapter shall be deemed to be a part of the election law of Guam within the meaning of all provisions therein respecting offenses against such law.

SOURCE: GC § 2950.

§ 16602. Bribery.

Any person who offers any bribe or makes promise of gain, or with knowledge of the same, permits any person to offer any bribe or make any promise of gain for that person's benefit, to any voter to induce that person to sign an election paper, any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after signing, shall be guilty of a felony of the third degree.

SOURCE: GC § 2951, as amended by P.L. 13-187:59; P.L. 25-146:60.

§ 16603. Separability.

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If any provision of this Chapter, or the application thereof, to any person or circumstances is held invalid, the remainder of the Chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SOURCE: GC § 2952.
