

From: [Committee on Rules 36GL](#)
To: [Clerks: Bernabe Mero](#)
Cc: [Speaker Therese M. Terlaje](#)
Subject: Messages and Communications for Doc. No. 36GL-22-2528*
Date: Tuesday, September 27, 2022 8:32:59 AM
Attachments: [image.png](#)
[36GL-22-2528.pdf](#)

Håfa Adai Clerks,

Please see attached M&C Doc. No. 36GL-22-2528 for processing:

36GL-22-2528 Reporting Requirements for Boards and Commissions September 2022*
Reporting Requirements for Boards and Commissions - September 2022* Guam Ethics Commission

Si Yu'os Ma'åse',



COMMITTEE ON RULES

Vice Speaker Tina Rose Muña Barnes, Chairperson
36th Guam Legislature
I Mina'trentai Sais Na Liheslaturan Guahan
Guam Congress Building | 163 Chalan Santo Papa Hagåtña Guam 96910
Email: cor@guamlegislature.org

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----- Forwarded message -----

From: **Speaker Therese M. Terlaje** <speaker@guamlegislature.org>
Date: Mon, Sep 26, 2022 at 4:49 PM
Subject: Messages and Communications for 36GL-22-2528
To: Legislative Secretary Amanda Shelton <officeofsenatorshelton@guamlegislature.org>, Committee on Rules 36GL <cor@guamlegislature.org>

Håfa Adai,

Please see attached M&C Doc. No. 36GL-22-2528*

36GL-22-2528	Reporting Requirements for Boards and Commissions September 2022*	Guam Ethics Commission
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Si Yu'os Ma'åse',

Marie Cruz

Community Relations Liaison

Office of Speaker Therese M. Terlaje
Committee on Health, Land, Justice and Culture
I Mina'trentai Sais na Liheslaturan Guahan
36th Guam Legislature
Guam Congress Building, 163 Chalan Santo Papa, Hagåtña, Guam 96910
T: (671) 472-3586 F: (671) 989-3590 Email: senatorterlajegum@gmail.com
website: www.senatorterlaje.com

----- Forwarded message -----

From: **Reuben C. Bugarin** <Reuben.Bugarin@ethics.guam.gov>
Date: Mon, Sep 26, 2022 at 4:38 PM
Subject: Guam Ethics Commission Reporting Requirements for September 2022
To: Speaker Therese M. Terlaje <speaker@guamlegislature.org>, Jean S. Taitano <jean.taitano@guam.gov>
Cc: Jesse Quenga <Jesse.Quenga@ethics.guam.gov>, Ethics Info <Info@ethics.guam.gov>

Håfa Adai,

On behalf of the Guam Ethics Commission, I respectfully transmit the board packet for the Commission's September meeting. If our office can provide anything further, please feel free to contact me. Thank you.

Regards,

Reuben C. Bugarin

Ethics Program Coordinator

GUAM ETHICS COMMISSION

Kumisi6n i Ginihan Areklamenton Guahan

134 West Soledad Ave.
Suite 406, BOH Bldg.
Hagatna, Guam 96910
Phone: (671) 969- 5622
Fax: (671) 969-5626

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Speaker Therese M. Terlaje <speaker@guamlegislature.org>

Guam Ethics Commission Reporting Requirements for September 2022

Reuben C. Bugarin <Reuben.Bugarin@ethics.guam.gov>

Mon, Sep 26, 2022 at 4:38 PM

To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>, "Jean S. Taitano" <jean.taitano@guam.gov>

Cc: Jesse Quenga <Jesse.Quenga@ethics.guam.gov>, Ethics Info <Info@ethics.guam.gov>

Håfa Adai,

On behalf of the Guam Ethics Commission, I respectfully transmit the board packet for the Commission's September meeting. If our office can provide anything further, please feel free to contact me. Thank you.

Regards,

Reuben C. Bugarin

Ethics Program Coordinator

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Hagatna, Guam 96910

Phone: (671) 969- 5622

Fax: (671) 969-5626

DOC NO. 36GL-22-2528
OFFICE OF THE SPEAKER

Therese M. Terlaje

Date: 09/26/2022

Time: 4:38 p.m.

Received: *MCruz*

COMMITTEE ON RULES

RECEIVED:

September 26, 2022

4:49 P.M.

Frank El

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Guam Ethics Commission Reporting Requirements for September 2022.pdf

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GUAM ETHICS COMMISSION
Kumisión i Ginihan Areklamenton Guåhan
Government of Guam
134 W. Soledad Ave., BOH Bldg. Ste. 406
Tel: 671-969-5625 | Telefax: 671-969-5626

Transmitted Via Electronic Mail

September 26, 2022

Honorable Lourdes A. Leon Guerrero
Governor of Guam
Office of the Governor
513 W. Marine Corps Drive
Hagåtña, Guam 96910

Honorable Therese M. Terlaje
Speaker, 36th Guam Legislature
I Mina Trentai'sais Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: Reporting Requirements for Boards and Commissions – September 2022

Håfa Adai Governor Leon Guerrero and Speaker Terlaje,

On behalf of the Guam Ethics Commission, respectfully transmitted herewith is the reporting requirements of 5 GCA Chapter 8 § 8113.1 regarding the Guam Ethics Commission's regular meeting held on September 23, 2022

If I can provide further assistance or clarification, please feel free to contact me through email at jesse.quenga@ethics.guam.gov.

Si Yu'os Ma'ase!

JESSE JOHN QUENGA, CM®
Executive Director

Enclosure: Guam Ethics Commission September 23, 2022 Meeting Packet



GUAM ETHICS COMMISSION

Kumision Dinisiplina I Guåhan

Government of Guam

134 W. Soledad Ave., BOH Bldg. Ste. 406

Tel: 671-969-5625 * Telefax: 671-969-5626

GUAM ETHICS COMMISSION MEETING PACKET

September 23, 2022

12:30 PM



GUAM ETHICS COMMISSION
Kumisión i Ginihan Areklamenton Guåhan

Regular Meeting
Friday, September 23, 2022
12:30 AM

AGENDA

COMMISSIONERS

Shannon J. Murphy
Chairwoman

Marilyn R. Borja
Vice-Chairwoman

Christopher A. Cruz

Robert S. Jack, MD

Daphne M. Leon Guerrero

Margaret E.R. Tyquiengco

COMMISSION STAFF

Jesse J. Quenga
Executive Director

Pamela D. Mabazza
Ethics Program Coordinator

Reuben C. Bugarin
Ethics Program Coordinator

I. Call to Order / Roll Call of Members

II. Approval of Minutes

- a. August 31, 2022 – Regular Meeting

III. Executive Director's Report

IV. Old Business

- a. Relative to the Approval of Proposed Memorandum of Agreement with UOG School of Business and Public Administration Regarding Ethics Training Facilitators.

V. New Business

- a. Review and Act on Resolution No. 2022-002 Relative to the Approval of Proposed Rules and Regulations Governing the Administration of the Guam Ethics Commission Relating to Standards of Conduct Under 4 GCA Chapter 15 as amended.
- b. Travel Request – Council of Governmental Ethics Laws Annual Meeting: December 4th – December 7th

VI. Closed Proceedings - 4 GCA 15 §15401

- a. ETH-22-004-UT-201
- b. ETH-22-005-COI-202
- c. ETH-22-012-COI-202
- d. ETH-22-013-COI-202
- e. ETH-22-019-CI-202
- f. ETH-22-020-OT-203
- g. ETH-22-021-CI-203

VII. Announcements

VIII. Adjournment

Guam Ethics Commission Board Meeting—Minutes

Date: August 31, 2022

Time: 11:38am

Location: Via Zoom

I. Call to Order / Roll Call of Members

a. Members Present:

- Chairperson Shannon Murphy
- Vice-Chairperson Marilyn Borja
- Christopher Cruz, Commissioner
- Daphne Leon Guerrero, Commissioner
- Dr. Robert Jack, Commissioner (joined 11:59am)

b. Members Absent:

- Meg Tyquiengco, Commissioner

c. Staff Present:

- Jesse Quenga, Executive Director
- Pamela Mabazza, Ethics Program Coordinator
- Reuben Bugarin, Ethics Program Coordinator

d. Others present: None

II. Approval of Minutes

July 15, 2022 – Regular Meeting, July 25, 2022– July 15th Regular Meeting continued, July 29, 2022 – July 15th Regular Meeting continued

MOTION: M. Borja motions to approve minutes July 15, 2022 – Regular Meeting, July 25, 2022– July 15th Regular Meeting continued, July 29, 2022 – July 15th Regular Meeting continued

Seconded by: Daphne Leon Guerrero

Discussion: None

Decision: Motion Carries

III. Executive Director's Report

Updates

a. Website & E-learning Portal

- The website's online learning portal will launch soon. The program will be presented in three video segments with a quiz that follows the conclusion of each segment. Once complete, scores will be reviewed by staff before releasing certificates of completion. Further, we hope the Commission has had a chance to visit the page. If there are any feedback that you believe will enhance the site, please feel free to share. Thank you to Chairwoman Murphy for providing additional feedback, most recommendations are currently presented in the webpage

b. Ethics Training Workshops

- The Commission continues to conduct ethics workshops weekly, with an average attendance of 50 to 60 participants each. Since the last report on

July 15th, an additional 240 government officials have completed their training with the Commission.

c. FY 2021 Citizen Centric Report

- The commission staff are pleased to share the draft copy of the first Citizen-Centric Report as mandated by Title 1 GCA Chapter 19. Among the information presented in the report include an overview of the Commission, its performance, finances, as well as challenges and outlook. Thank you to Reuben Bugarin for leading the production effort of this report.

d. UOG Memorandum of Agreement – Fiscal Year 2023

- Staff have begun to prepare the draft agreement that will cover the second year of the Commission offering ethics training. Some key changes to be reflected in the draft include reducing the number of workshops from weekly to bi-weekly and incorporating the planning of an annual conference centered on government ethics.

e. Membership – Council on Governmental Ethics Laws (COGEL)

- There are several organizations that have rich information/resources, supportive of the professional development of Commission staff. One such organization which we are nearing recognition as member status is the Council on Governmental Ethics Laws (COGEL). COGEL is a professional organization for government agencies and other organizations working in ethics, elections, freedom of information, lobbying, and campaign finance. In April 2022, the Commission received an invitation to attend the organization's annual conference scheduled in Montreal, Canada for December 4 – 7, 2022. If any Commissioner is interested in attending the annual conference, please indicate your interest with staff. Additionally, there is a desire to have the staff become members of the AGA-Guam Chapter.

f. Fiscal Year 2023 Budget – Appropriations to the Guam Ethics Commission

- The Guam Legislature is scheduled to vote on substitute Bill No. 276-36 (LS) as amended. In the bill, the Commission is anticipating receiving an appropriation of \$355,275 from the General Fund. Although this amount is less than the Commission's full request, it does reflect a 33% increase from current fiscal year 2022 appropriation and sustains the Commission's ability to make payroll and cover some contractual obligations.

g. Account Balance Summary

BALANCE REMAINING					
Category	2021	2022	Revenue Account	ARPA	TOTAL
Salaries	\$ -	\$ -	\$ 14,645.60	\$ 6,222.14	\$ 20,867.74
Benefits	\$ -	\$ -	\$ 5,315.48	\$ 3,927.12	\$ 9,242.60
Travel	\$ -	\$ -	\$ -	\$ -	\$ -
Contractual	\$ 71.92	\$ 10,800.00	\$ -	\$ -	\$ 10,871.92
Rent	\$ -	\$ -	\$ -	\$ -	\$ -
Supplies	\$ 1,972.54	\$ 1,500.00	\$ -	\$ 8,631.50	\$ 12,104.04
Equipment	\$ 19.09	\$ -	\$ -	\$ 38.88	\$ 57.97
Drug Testing	\$ 40.00	\$ -	\$ -	\$ -	\$ 40.00
Misc.	\$ 607.46	\$ 4,412.00	\$ 51,116.04	\$ -	\$ 56,135.50
Telephone	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal	\$ 2,711.01	\$ 16,712.00	\$ 71,077.12	\$ 18,819.64	\$ 109,319.77

*Funds do not reflect additional \$29,360 collected, but not yet loaded into the revenue fund.

IV. Old Business - none

V. New Business

- a. Review and Act on rescinding the Guam Ethics Commission Proposed Rules and Regulations transmitted for review on July 29, 2022 to the Office of the Governor and the Office of the Attorney General.

MOTION: Christopher Cruz move to approve resolution to rescind 1st proposed rules and regulations

Seconded by: Dr. Robert Jack

Discussion: None

Decision: Motion Carries

- b. Review and Act on Resolution No. 2022-002 Relative to the Approval of Proposed Rules and Regulations Governing the Administration of the Guam Ethics Commission Relating to Standards of Conduct Under 4 GCA Chapter 15 as amended.

MOTION: Marilyn Borja motion to table until September meeting

Seconded by: Christopher Cruz

Discussion: None

Decision: Motion Carries

MOTION: Daphne Leon Guerrero motion to move into closed proceedings at 12:00pm

Seconded by: Christopher Cruz

Discussion: None

Decision: Motion Carries

VI. Closed Proceedings - 4 GCA 15 §15401

- a. ETH-22-004-UT-201
- b. ETH-22-005-COI-202
- c. ETH-22-012-COI-202
- d. ETH-22-013-COI-202
- e. ETH-22-019-CI-202
- f. ETH-22-020-OT-203
- g. ETH-22-021-CI-203

VII. Announcements

- Executive Director Meeting with State Hawaii Ethics

VIII. Adjournment

MOTION: Marilyn Borja motion to adjourn at 12:29 pm

Seconded by: Daphne Leon Guerrero

Discussion: None

Decision: Motion Carries

MEMORANDUM OF AGREEMENT
Between
GUAM ETHICS COMMISSION
And
UNIVERSITY OF GUAM SCHOOL OF BUSINESS AND PUBLIC
ADMINISTRATION

The Guam Ethics Commission (GETHC) and the University of Guam School of Business and Public Administration (UOG-SBPA) enter into this Memorandum of Agreement (MOA) for the purposes described below effective upon the approval of the GETHC.

The **GUAM ETHICS COMMISSION** whose address is 134 West Soledad Avenue, Suite 406, Bank of Hawaii Building; hereinafter called "**GETHC**", and **UNIVERSITY OF GUAM SCHOOL OF BUSINESS AND PUBLIC ADMINISTRATION**, whose address is 303 University Drive, UOG Station, Mangilao Guam 96913; hereinafter called "**UOG-SBPA**"

WITNESSETH

WHEREAS, Public Law, 36-25, tasks the GETHC to play a central role in holding elected and appointed government officials and government employees accountable to ethical standards, and to conduct training for all government of Guam employees through the Ethics in Government Program; and

WHEREAS, the University of Guam is a U.S. accredited, regional land-grant institution especially focused on serving the communities of Guam, Micronesia, and the neighboring regions of the Pacific and Asia.

WHEREAS, The UOG-SBPA has developed and conducted ethics training in compliance with the standards articulated in PL 36-25 and has established the PALS Good Governance and Leadership Network to support the GETHC by developing materials and conducting training for Government of Guam classified employees, appointed personnel, elected officials, and other entities as required by Government of Guam Ethics Laws.

WHEREAS, Public Law 36-25 has designated the GETHC as the lead organization responsible for the delivery of the Ethics in Government program for both elected and appointed officials as well as all government of Guam employees; and

WHEREAS, GETHC has engaged UOG-SBPA to conduct ethics training in accordance with PL 36-25 for all government of Guam employees.

WHEREAS, GETHC has identified that UOG-SBPA through its Good Governance and Leadership Network has the required expertise and experience to conduct ethics training in accordance with PL 36-25

WHEREAS, GETHC and UOG-SBPA desire to officially enter into this memorandum of agreement for UOG-SBPA to conduct ethics training.

WHEREAS, this MOA shall enumerate the process through which GETHC and UOG-SBPA shall provide collaboration in relation to conducting training for the Ethics in Government Program; and

WHEREAS, a determination has been made by GETHC that this MOA is necessary to fulfill its statutory mandates for government employees and officials ethics trainings;

NOW, THEREFORE, the GETHC and UOG-SBPA in consideration of the mutual covenants hereinafter set forth, agree as follow:

I. UOG-SBPA AGREES TO PROVIDE THE FOLLOWING:

- UOG-SBPA shall provide and conduct 4-hour general course ethics course training in accordance with 5 GCA Chapter 15 Section 15410, as amended by PL 36-25 to include the following topics:
 - i. Guam statutes concerning ethics
 - ii. Guam statutes concerning lobbying
 - iii. Guam procurement laws and regulations
 - iv. Guam contracting laws and regulations
 - v. Parliamentary procedure
 - vi. Fiduciary responsibility
 - vii. Personnel policy
 - viii. Government finance
 - ix. Open Government Law and Sunshine reform act of 1999
 - x. Group participation in discussing, analyzing, and solving general ethics-related dilemmas;
- Conduct a total of 30 trainings from October 1, 2022 through September 30, 2023 as specified below:
 - i. Conduct eighteen (18) 4-hour in-person trainings every other week starting October 1, 2022;
 - ii. Conduct eight (8) 4-hour Zoom trainings after completion of two (2) in-person trainings starting October 1, 2022
 - iii. Conduct an additional four (4) 4-hour trainings as needed
- Conduct a Two (2) Day Conference as specified below:
 - i. One (1) instructor to teach each of the ten (10) topics iterated in (I)(A) of this agreement. Each instructor will be contracted to prepare and conduct workshops on their assigned topic during the two day conference.
 - ii. Provide all records and documents associated with training and training completion including presentations to GETHC to be shared with registered participants.

- Provide adjusted schedules and trainings due to delays in the signatory process if the MOA is not approved before the first day of training on October 01, 2022. Provide an adjusted payment schedule in III.B to reflect a reduction in training and associated costs, if needed.
- Provide additional instructors to the Good Governance Leadership Network and ensure that all instructors meet the qualifications to conduct training.
- Authorize use of SBPA facilities for in-person workshops at no additional cost, other than the compensation stated in this agreement.
- Provide invoices timely at the conclusion of each workshop to ensure timely compensation of instructors.
- Provide a list of a primary and alternative instructor for each workshop. In the event the primary instructor is unable to conduct their scheduled workshop, UOG-SBPA shall ensure the alternate instructor attends and that all scheduled workshops are conducted as scheduled. UOG-SBPA should notify GETHC of any change within a reasonable time.
- Meet periodically with GETHC officials to discuss participant feedback to address any area of improvement for instructors as shared by participants.

II. THE GETHC AGREES TO PROVIDE THE FOLLOWING: GETHC shall do the following to assist the UOG-SBPA in performing the services pursuant to this MOA:

- Coordinate all logistics, communications between and among agencies and participants, and UOG-SBPA
- Coordinate and secure participants for trainings
- Provide regular communication and guidance on changes, adjustments, or amendments to training schedules, as needed.
- Provide assessment of instructors/trainers.
- Receive reimbursement of costs for trainings from agencies that employ the official or employee.
- Provide compensation of Twelve Thousand Dollars and Zero Cents (\$12,000) to UOG-SBPA, Good Governance and Leadership Network to conduct thirty (30) 4-hour trainings commencing October 01, 2022 through September 30, 2023 as detailed in Section I. Compensation for each 4-hour training is One Hundred Dollars and Zero Cents per hour.
- Provide compensation of Ten Thousand Dollars and Zero Cents (\$10,000) to UOG-SBPA, Good Governance and Leadership Network to conduct a Two (2) Day Conference training as detailed in Section I. Compensation for the Two (2) Day Conference training is One Thousand Dollars and Zero Cents per instructor.
- Agrees to ensure that payments are processed on a timely basis (i.e. within thirty calendar days upon receipt of request for payment) to pay for all associated costs based on invoices received for work as specified in Section I of this agreement.

III. COMPENSATION

- To facilitate the need for trainings, **GETHC** has allocated funding for UOG-SBPA for the costs of professional services to conduct ethics training. The **GETHC** will compensate **UOG-SBPA** for work performed pursuant to Section

I. The **GETHC** shall compensate **UOG-SBPA** upon the submission of invoice and the acceptance of services performed pursuant to Section I of this Agreement.

- The amount due to **UOG-SBPA** in Section II.E of this agreement shall be paid as invoiced by UOG-SBPA. The payment installments are as follow:
 - i. Payment in the amount of \$400.00 be invoiced after completion of every training.
 - ii. Payment in the amount of \$10,000.00 be invoiced after the Two (2) Day Conference.
- **UOG-SBPA** shall submit its request for payment in the form of certified invoices to GETHC; The **GETHC** shall be responsible for and take reasonable steps to facilitate prompt payment within thirty (30) days following receipt of invoice/request for payment.
- **GETHC** shall compensate the UOG-SBPA for expenditures associated with the work prescribed under this MOA.
- The **UOG-SBPA** shall ensure that funds received are utilized solely for training in Section I of this agreement. Any costs outside the parameters of this MOA shall not be authorized unless written prior approval is obtained from both UOG-SBPA and GETHC.

IV. **TERMS OF AGREEMENT.** Subject to Section XI, the term of this Agreement shall be from the date of the execution of this Agreement to the end of the project, but no later than September 30, 2023. No payment shall be made by the **GETHC** for expenses incurred by **UOG-SBPA** during the term of this Agreement until such time the designated signatory for GETHC affixes his or her signature effectuating this Agreement as outlined in Section XI of this Agreement.

V. **AMENDMENTS.** Any changes to the Memorandum of Agreement shall be by mutual agreement of all parties under this agreement and shall be in writing. If such changes cause an increase or decrease in the costs of doing the work under this Agreement, or in the time required for this performance, a mutually agreeable adjustment shall be made and the Agreement shall be modified in writing accordingly

VI. **GENERAL COMPLIANCE WITH LAWS:** Grantee, subgrantee, and contractors shall be required to comply with all Federal and Guam laws and regulations applicable to the work. Grantee, subgrantee, and contractors shall attach a copy of its business license or a statement of exemption pursuant to Section 16024 of the Government Code

VII. **EMPLOYMENT PROHIBITION:** The service provider warrants that no person in its employment who has been convicted of a sex offense under the provisions of 9 GCA Chapter 25 or of an offense defined in 9 GCA Chapter 28, Article 2, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of the service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the Government of the conviction

within twenty-four hours of the conviction, and will remove immediately such convicted person from providing services on government property. If the service provider is found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours of notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action has been taken

- VIII. **ACCESS TO RECORDS AND OTHER REVIEW:** **UOG-SBPA** shall maintain all data and records pertaining to this Agreement and make such materials available at their respective offices at reasonable times during the agreement period and for three (3) years from the date of the final payment. In addition, **UOG-SBPA** will provide such information, upon request by the **GETHC**.
- IX. **OWNERSHIP OF DOCUMENTS.** The Agreement herein provides compensation for the delivery of trainings; all documents and materials used for trainings are owned by the instructors. Any and all materials shall be used for the sole purposes to conduct trainings, the **GETHC** shall not reproduce, sell, convey or otherwise use materials for any purpose outside of this Agreement. **UOG-SBPA**, along with the developers of the materials, retain all rights to all training materials and documents and use in all forms and manner. This agreement shall not limit nor prohibit **UOG-SBPA** to use materials and conduct training for any other organizations, non-profit, private, government entities or otherwise. **UOG-SBPA** warrants that the training materials satisfies the requirements of 4 GCA § 15410.
- X. **INDEMNITY.** All parties agree to save and hold harmless each organization, its officers, agents, representatives, successors, and assigns from any and all suits or actions of every nature and kind, with may be brought
- XI. **NOTIFICATION OF CLAIMS.** **UOG-SBPA** will, within thirty (30) days after any claim accrues arising out of or in connection with this Agreement provide herein, give written notice to the **GETHC** and its Attorney of such claim, setting forth in detail all the facts relating thereto and the basis for such claim; and will not institute any suit or action against the Government in any court or tribunal in any jurisdiction based on any such claim later than one (1) year after such filing. Any action or suit on any claim shall not include any item or matter not specifically mentioned in the proof of claim above specified. It is agreed that if such action or suit is instituted, proof by **UOG-SBPA** of its compliance with provisions of this paragraph does not constitute a waiver of any applicable statutes of limitation.
- XII. **TERMINATION.** Either of the parties hereto, may, by written notice to the other, terminate this MOA in whole or in part at any time, either for convenience or default. If the MOA is terminated by **UOG-SBPA**, or by **GETHC** for cause, prior to its completion, **UOG-SBPA** shall reimburse **GETHC** for any unexpended expenses or fees associated with this MOA and **GETHC** may retain as a set off for such expenses or fees any funds owed by **UOG-SBPA** in **GETHC**'s possession. **UOG-SBPA** will

however, be paid the reasonable value for services performed that are acceptable to **GETHC**.

- XIII. ARBITRATION.** **UOG-SBPA** agree that any dispute or controversy arising from or related to the MOA shall be submitted to binding arbitration to be conducted by an arbitrator or panel of arbitrators provided that first, **UOG-SBPA** and **GETHC** shall attempt to resolve the issue or dispute through discussion held in good faith. Any such arbitrations shall be conducted in Guam. Either party to this MOA may initiate the arbitration by notice in writing to the other party setting forth the nature of the dispute or controversy, the amount involved, if any, and the remedy sought. The arbitrator or panel of arbitrators shall be appointed promptly upon written application of the initiating party and shall be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Depositions may be taken and other discoveries obtained in any arbitration under this MOA. The arbitrator or panel of arbitrators hereunder shall conduct the arbitration pursuant to the Commercial Association Rules of the American Arbitration Association then in effect, except as such rules may be modified for the purpose of the arbitration proceeding by mutual agreement of the parties to this agreement. The award of the arbitrator or panel of arbitrators shall be final and binding upon the parties hereto and judgment thereon may be entered in any court having jurisdiction. All statutes of limitation which would not otherwise be applicable shall apply to any arbitration proceeding hereunder. The provisions of this section shall survive any termination of this MOA. The arbitrator or panel of arbitrators shall award reasonable attorneys' fees and costs to the prevailing party.
- XIV. GOVERNING LAW.** The validity of this MOA and of any of its terms or provisions as well as the rights and duties of the parties to this MOA, shall be governed by the laws of Guam, whether in arbitration or in any court of competent jurisdiction.
- XV. COMPLIANCE WITH LAWS.** **UOG-SBPA** including its agents, employees, and contractors shall comply with all applicable laws of the United States and the Territory of Guam applicable to the work, which is the subject of this MOA.
- XVI. SEVERABILITY.** If any provision of this Agreement shall be deemed by a court of competent jurisdiction to be invalid, then such provision shall be deemed stricken from the Agreement and the Agreement shall be enforced according to its valid and subsisting terms and provisions.
- XVII. EFFECTIVE DATE OF AGREEMENT:** This Agreement shall take effect upon the date it is signed by the **GETHC** Chairperson and the date of this Agreement shall be the date upon which the Chairperson affixes her signature and extends through September 30, 2023 or unless agreed upon by all parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates indicated by their respective names.

UNIVERSITY OF GUAM:

GUAM ETHICS COMMISSION

DR. THOMAS W. KRISE

Date
President

JESSE J. QUENGA

Date
Executive Director

DR ANITA BORJA ENRIQUEZ

Date
Senior Vice President and Provost

DR. FRED R. SCHUMANN

Date
Dean, School of Business and Public
Administration

APPROVED AS TO FORM:

APPROVED AS TO FORM:

ANTHONY R. CAMACHO, ESQ.

Date
General Counsel

JOSEPH B. McDONALD, ESQ.

Date
Legal Counsel

EXHIBIT A

Guam Administrative Rules and Regulations

Title 32

GUAM ETHICS COMMISSION

Proposed Rules and Regulations Governing the Administration of the

Guam Ethics Commission Relating to Standards of Conduct

under 4 GCA Chapter 15

PROPOSED

Title 32 - Guam Ethics Commission

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PROPOSED

CHAPTER 1

GENERAL PROVISIONS

§ 1101. Purpose.

These rules and regulations are intended to carry out and to provide for the efficient administration of the provisions of Chapter 15 of Title 4, Guam Code Annotated, relating to Standards of Conduct for Elected Officers, Appointed Officers, and Employees of the Government of Guam; and to ensure the proper performance of the Guam Ethics Commission. They shall be liberally construed to promote the highest standards of ethical conduct within the government of Guam and to secure the just, swift, and inexpensive determination of every proceeding.

§ 1102. Policy.

The Guam Ethics Commission is an independent and autonomous Commission within the Government of Guam, whose purpose is to hold officers and employees accountable to the Ethical standards established in Guam law. The Guam Ethics Commission shall prescribe a process for receiving complaints, investigating the facts, conducting hearings, and rendering opinions on whether any violation of the standard of conduct for officials and employees have been violated. Further the Guam Ethics Commission shall develop the standards for the Ethics in Government Program and ensure all employees, as defined in 4 GCA § 15102(d), of the Government of Guam are complying with the mandate of said training.

§ 1103. Authority to Adopt Rules.

This Chapter is adopted under the authority granted by 4 GCA § 15401(a)(5), and by any other law administered and enforced by or applicable to the Commission that establishes the Commission's authority to adopt rules.

§ 1104. Jurisdiction.

(a) These rules and regulations shall apply to any nominated, appointed, or elected officer or individual employed with a Guam agency, including members of boards or commissions, and persons under personal services contracts.

(b) The Commission shall have jurisdiction to investigate and take appropriate action on alleged violations of 4 GCA Chapter 15 in all proceedings commenced within three (3) years of an alleged violation by an employee or a former employee.

§ 1105. Definitions.

(a) *Administrative Hearing* means an administrative hearing, closed to the public (unless the party complained against requests and open hearing), following the Commission's determination that Probable Cause exists to believe that a violation of Governmental Ethics Laws has occurred.

(b) *Agency* means every branch of government, public corporations, all government of Guam departments, bureaus, and line agencies, autonomous and semi-autonomous agencies, instrumentalities, entities or sub-entities thereof, the Mayors' Council of Guam and Mayors' offices.

(c) *Commission* shall mean the Guam Ethics Commission.

(d) *Complainant* means a person who has submitted a complaint to the Commission, or the Commission or its Executive Director, if the Commission so designates itself or its Executive Director in a notice of alleged violation.

(e) *Complaint Form* means the form adopted by the Commission, which includes a written statement of facts or allegations giving rise to a reasonable inference that a violation of the standards of conduct by an officer or employee has occurred, which statement is submitted and signed under oath to the Commission by a person other than the person whose conduct is in question.

(f) *Decision* means the written opinion, findings, and conclusions of the Commission, rendered after an administrative hearing.

(g) *Employee* means any nominated, appointed, or elected officer or individual employed with a Guam agency as defined herein, including members of boards or commissions, and persons under personal services contracts.

(h) *Advisory Opinion* means a written opinion issued pursuant to 4 GCA § 15401 (a) (2) in response to a request for guidance from an employee or former employee which is approved by an affirmative vote of no less than five (5) members of the Commission.

(i) *Informal Advisory Opinion* means:

(1)

the initial written opinion approved by an affirmative vote of no less than five (5) members of the Commission that is rendered pursuant to 4 GCA § 15401 (b) after an investigation into alleged violation(s) of the Standards of Conduct.

(j) *Preliminary Review* means an examination of the facts contained within a complaint for the sole purpose of determining whether the subject of the complaint is appropriate for investigation by the Commission. (k) *Probable cause* means evidence sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a violation of standards of conduct has been committed and that the Respondent committed or caused the violation.

(l) *Respondent* means the person who is alleged in a complaint or notice of alleged violation to have violated one or more provisions of the standards of conduct.

(m) *Staff* means all commission full and part time employees, those employed on a personal services contract, and consultants including, but not limited to, legal counsel, associate legal counsel, legal clerk, and investigator.

(n) *Standards of conduct* means the provisions regarding ethical conduct stated in 4 GCA Chapter 15.

§ 1106. Disqualification of Commissioners; Bias or Prejudice.

(a) Any interested person, officer or employee of the government of Guam may file an affidavit that one or more of the commissioners or designee has a personal bias or prejudice. Such an affidavit may be filed on any matter before the Commission affecting or involving such person, officer or employee. The Commissioner or designee against whom the affidavit is filed may answer the affidavit or may file a disqualifying certificate with the Commission. If the Commissioner or designee chooses to answer the affidavit, the remaining commissioners shall decide whether or not that Commissioner or designee should be disqualified from proceeding therein. Every affidavit shall state the facts and reasons for the belief that bias or prejudice exists and shall be filed at least ten (10) working days before the date on which the matter will be considered by the commission, or good cause shall be shown for the failure to do so.

(b) A Commissioner or designee may disqualify themselves by filing with the commission a disclosure of conflict of interest that they deem themselves unable for any reason to participate with absolute impartiality in the pending proceeding.

(c) A Commissioner or designee shall be disqualified from participating in any proceeding where such participation would be a violation of the conflict of interest provisions of the standards of conduct. A Commissioner or designee shall disclose before the commencement of any meeting agenda item or hearing all relationships to any of the parties or participants.

§ 1107. Consolidation.

The Commission, upon its own initiation or upon a motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues which are the same or closely related, if it finds that such consolidation or contemporaneous

hearing will be conducive to the proper dispatch of its business and will not unduly delay the proceedings.

§ 1108. Maintenance and Custody of Files and Records.

The Executive Director shall have charge of the Commission's official records and shall be responsible for the maintenance and custody of the files and records of the commission, including the papers, transcripts of testimonies and exhibits filed in proceedings, the minutes of all actions taken by the Commission, and all its decisions, advisory opinions, rules and approved forms. The Executive Director or Commission staff shall receive all documents required to be filed with the Commission and shall promptly stamp the time and date upon papers filed with the Commission.

§ 1109. Authentication of Commission Action.

All decisions, informal and formal advisory opinions, and guidelines of the Commission shall be signed by the chairperson of the Commission or in accordance with authority delegated by the Commission.

CHAPTER 2

ORGANIZATION AND ADMINISTRATION

§ 1201. Composition and Function.

The composition, duties, functions, powers and responsibilities of the Guam Ethics Commission shall generally be as provided and authorized in 4 GCA, Chapter 15.

§ 1202. Commission Officers.

The officers of the Commission, elected by the voting members, shall be a Chairperson and Vice-Chairperson. The Executive Director appointed by the Commission shall serve as the ex-officio Secretary of the Commission in accordance with 4 GCA § 15407. Each officer shall have duties, functions, powers and responsibilities:

- (a) as prescribed for such office by law;
- (b) which, by general consent and parliamentary custom, pertain to such office, consistent with the law; and
- (c) as are consistent with the foregoing and which, in addition, the Commission may prescribe.

§ 1203. Election and Term of Chairperson.

The Chairperson shall be that person so designated as the presiding officer for a term of one (1) year. The election of both offices shall take place during a regular meeting of the Commission held in January each year. The incumbent Chairperson of the Commission shall preside until a successor is elected. A majority of the voting members for a particular candidate shall be necessary for election. Voting shall be by open ballot. The term of office shall not exceed two (2) consecutive terms. In the event of a vacancy in any of the positions, the office shall be filled in the prescribed manner at the next regular meeting. The Commission

may include such officer positions deemed necessary to effectively carry out its responsibilities.

§ 1204. Duties of Chairperson.

The duties of the Chairperson shall be:

- (a) to call and preside at all meetings of the Commission;
- (b) to call special meetings of the Commission;
- (c) to serve ex-officio as a member of all committees established by the Commission; and
- (d) to appoint committees and to take such other action as is consistent with these rules or Chapter 15 of Title 4, Guam Code Annotated, relating to Standards of Conduct for Elected Officers, Appointed Officers, and Employees of the Government of Guam.

The Chairperson shall be entitled to vote on all matters before the Commission.

§ 1205. Duties of Vice-Chairperson.

The duty of the Vice Chairperson shall be to perform the duties of the Chairperson at his or her request or in case of his or her absence or incapacity.

§ 1206. Ex-Officio Secretary.

The Executive Director may designate an employee of the Commission to carry out the duties as Ex-Officio Secretary under the direction of the Executive Director.

§ 1207. Vacancies.

In the event of a vacancy in the Officers of the Commission, the office shall be filled in the prescribed manner at the next regular meeting. The Commission may include such other officer positions deemed necessary to effectively carry out its responsibilities.

§ 1208. Removal of Officers.

Four (4) affirmative votes of the Commission's membership shall be required for the removal of the Chairperson or Vice-Chairperson.

§ 1209. Commission Meetings.

(a) Requirements for Public Notice. All meetings of the Commission shall be publicly noticed in accordance with Chapter 8 of Title 5, Guam Code Annotated, otherwise known as the Open Government Law.

(b) Quorum. A quorum shall consist of four (4) voting members. Actions of the Commission shall be carried by a vote of not less than four (4) voting members, unless otherwise provided in Guam law.

(c) Closed Proceedings. The proceedings of the Commission outside of an executive session to adjudicate ethics complaints are confidential in nature, unless otherwise authorized in statute.

§ 1210. Virtual Meetings and Attendance.

Subject to Executive Order or other express statutory authority permitting virtual meetings, the Commission may convene and conduct virtual meetings remotely via videoconference or similar technological means and allow Commission members and the public to participate. Commission members who participate remotely in Commission meetings and official Commission proceedings shall be considered present for purposes of a quorum and voting. Votes cast by Commission members participating remotely shall have the same effect as voting in-person.

§ 1211. Relationship of Commission to Executive Director.

Pursuant to 4 GCA § 15407, although the relationship between the Executive Director and individual Commission members is collegial, the relationship of the Commission to the Executive Director is hierarchical. The Executive Director shall be accountable only to the Commission as a whole, and not to individual Commission members.

§ 1212. Authority to Hire Legal Counsel.

The Commission may retain one (1) or more attorneys, who shall be admitted to practice before the courts of Guam, who shall advise the Commission and its Executive Director 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 Commission, and the attorney shall serve at the pleasure of the Commission.

§ 1213. Fiscal Authority: Accounting; Expenditures.

The Commission shall be responsible for the conduct of operational matters addressing its financial activities, in accordance with the provisions contained herein.

(a) General Fund Appropriations. The Department of Administration shall establish, for the benefit of the Guam Ethics Commission, an account where funds appropriated by the Guam Legislature and signed into law by the Governor of Guam shall be deposited.

(b) Government Ethics Fund Special Fund. All monies, except for monies appropriated to the Guam Ethics Commission by law, generated as revenue by the Guam Ethics Commission shall be deposited into the Government Ethics Fund and shall be made available to support the operations of the Guam Ethics Commission as well as all other activities authorized under §10112(b) of Chapter 10, Title 5 Guam Code Annotated.

CHAPTER 3

REQUESTS FOR ADVISORY OPINIONS

§ 1301. Purpose.

Pursuant to 4 GCA § 15401 (a) (2), the Commission may provide a confidential advisory opinion to any employee, as defined in 4 GCA § 15401(d), as to whether the facts and circumstances of a particular case constitute or would constitute a violation of Chapter 15 of Title 4, Guam Code Annotated, relating to Standards of Conduct for Elected Officers, Appointed Officers, and Employees of the Government of Guam. Nothing in this Chapter shall prevent the Commission from investigating alleged violations resulting from a refusal to follow guidance.

§ 1302. Form and Content.

Requests for an Advisory Opinion shall be made in writing and describe with particularity all of the pertinent facts and circumstances, including, without limitation, the name(s) of the officer(s) or employee(s) involved, if known, and the nature of the acts or omissions at issue, and any other pertinent information known to the requestor.

§ 1303. Acknowledgment of Receipt.

The Commission shall acknowledge in writing the receipt of a verbal or written request for guidance to the person submitting the request for guidance. The Executive Director shall advise the requester of the confidentiality requirements relative to the request for guidance.

§ 1304. Issuance of Advisory Opinion.

(a) All Advisory Opinions issued by the Commission pursuant to 4 GCA § 15401 (a) (2) shall be in writing and shall be published in such form and with such deletions as may be necessary to prevent the disclosure of the identity of the persons involved unless disclosure is required or allowed under applicable law.

(b) Proposed Advisory Opinion submitted by Executive Director.

(1) The Executive Director may submit a Proposed Advisory Opinion for consideration by the Commission. The Commission may order the Advisory Opinion to be issued upon a vote of 5 or more members of the Commission. The Executive Director's Proposed Advisory Opinion may be submitted for consideration by the Commission in the following circumstances:

(A) The case raises an important legal or policy issue on which the Commission has not taken a position in a formal advisory opinion or decision;

(B) An advisory opinion in the case is likely to set new precedent;

(C) The requester asks for a formal advisory opinion from the Commission; or

(D) There are other unique aspects to the case of which the Commission should be made aware, including but not limited to that the request concerns an elected official.

(2)

(c) Additional Information. Upon receipt of a request for an Advisory Opinion, the Commission shall render its opinion on the basis of the information, facts, and circumstances provided to the Commission by the employee or former employee, or it may conduct an investigation or hold hearings if additional information is deemed necessary to render an advisory opinion.

(d) Within thirty (30) calendar days after a request for guidance has been submitted to the Commission, or within thirty (30) calendar days after a final hearing or meeting on a request for guidance shall have been concluded, whichever is later, the Commission shall render its advisory opinion to the person who has requested the guidance.

§ 1305. Confidentiality.

Any and all information provided to and obtained by the Commission regarding the request for guidance shall be confidential. Any Commission member or any individual, including the individual requesting for guidance, who without permission of the Commission, divulges confidential information and actions shall be guilty of a misdemeanor, in accordance with 4 GCA § 15401(c).

§ 1306. Basis for Refusal to Entertain.

The commission may deny a request for an Advisory Opinion in the following circumstances:

(a) the Commission has no jurisdiction over the allegations made in the request. A matter is outside the jurisdiction of the Commission if:

(1) the subject of the request is a person who is not identified as being within the scope of the Commission's investigative and enforcement authority;

(2) the request does not allege a violation of the Standard of Conduct for elected officers, appointed officers, and public employees of the government of Guam; or

(3) the allegations made in the request pertain to actions or events that occurred three (3) years prior to the date of filing of the complaint.

(b) The request restates other complaints containing essentially similar or identical allegations that have already been disposed of, and the evidence presented does not warrant reopening the previous case;

(c) The allegations contained in the request are already under investigation by the Commission;

(d) The request is without sufficient factual basis;

(e) The request consists entirely of one or more non-material violations that were previously discovered in a Commission audit and, in the Executive Director's judgment, were appropriately excused or remedied;

(f) The request consists entirely of one or more material findings of a Commission opinion, and the Commission has already voted against initiating an enforcement action based on those findings; or

(g) Other good cause.

PROPOSED

CHAPTER 4

COMPLAINTS

§ 1401. Who May File.

Complaints may be made by any person or the commission on its own initiative.

§ 1402. Filing of Complaints.

Complaints may be filed with the Commission in accordance with the following provisions:

(a) Any person may file a formal complaint alleging violations of the Standard of Conduct for elected officers, appointed officers, and public employees of the government of Guam. The Executive Director shall process and review all formal complaints. Formal complaints must be made in writing on a form specifically provided by the Commission, and must be dated, verified, and signed by the Complainant under penalty of perjury. If the Complainant is an entity, the complaint must be dated, verified, and signed under penalty of perjury by an authorized officer or agent of the entity. Formal complaints must include the following information, upon the Complainant's information and belief:

- (1) The name and address of the Complainant, and the telephone number at which the Complainant may be reached during normal business hours;
- (2) the name and any known addresses and telephone numbers of the Respondent;
- (3) the title or position of the Respondent, if known;
- (4) the Standard of Conduct allegedly violated;
- (5) the facts constituting each alleged violation;

(6) the names, addresses, and telephone numbers of persons with knowledge of the facts constituting an alleged violation, if known; and

(7) an identification of documents or other evidence that may prove the facts constituting the alleged violation, if known.

(b) Any person may file an informal complaint alleging violations of Standard of Conduct for elected officers, appointed officers, and public employees of the government of Guam. The Executive Director shall have no obligation, but has the discretion, to review and process informal complaints. Informal complaints include the following: written complaints that are not verified or signed under penalty of perjury; written complaints that do not contain all of the information required by law; unwritten complaints; anonymous complaints; and referrals from other governmental agencies.

(c) The Commission, individual Commissioners, the Executive Director, and the staff of the Commission, may submit a complaint for a Preliminary Review on their own initiative.

(d) The Commission shall not receive complaints at public meetings. The Commission shall urge the public in the strongest terms possible not to make complaints at public meetings.

(e) Complaints shall be made in writing and signed by the complainant; provided that the Commission may initiate an investigation of a possible violation of the standards of conduct based on any written or non-written information if adopted in writing by the complainant or the Commission.

(f) Complaints should describe the pertinent facts and circumstances, including, without limitations, the name of each officer or

employee involved, if known, and the nature of the acts or omissions at issue and any other pertinent information known to the complainant.

(g) It is not a defense to a violation of the standards of conduct that the complainant failed to supply all information relevant to the complaint.

§ 1403. Acknowledgment of Receipt.

The Commission shall acknowledge in writing or by email the receipt of a complaint to the complainant, if the complainant has provided sufficient contact information to the Commission.

§ 1404. Basis for Refusal to Entertain.

The Commission may for good cause refuse to entertain a complaint. Without limiting the generality of the foregoing, the commission or its Executive Director, acting on behalf of the Commission, may refuse to entertain a complaint if the request is:

- (a) Speculative or purely hypothetical and does not involve an actual situation;
- (b) The complaint does not present a question within the jurisdiction of the commission; or
- (c) Frivolous.

§ 1405. Preliminary Review.

Upon receipt of a complaint that complies with the requirements of Section §§ 1402 and 1404, the Executive Director shall:

- (a) Make a recommendation to the Commission as to whether the subject matter of the complaint is within the jurisdiction of the Commission.
 - (1) If the Executive Director determines that the complaint may be dismissed because the subject matter of the complaint does not come within the jurisdiction of the Commission, he or she shall

submit the recommendation to the Commission in a confidential meeting.

(b) Make a recommendation to the Commission in a confidential meeting as to whether the allegations, if taken as true, would constitute a violation of the standards of conduct.

(1)

§ 1406. Confidentiality.

Any and all information provided to and obtained by the Commission regarding the complaint shall be confidential. Any Commission member or any individual, including the individual requesting for guidance, who without permission of the Commission, divulges confidential information and actions shall be guilty of a misdemeanor.

§ 1407. Preliminary Investigation.

(a) Prior to the Executive Director's recommendations under §§ 1402, 1404 and 1405, the Commission may by a vote of five (5) or more members authorize the Executive Director to conduct an investigation into the allegations of the complaint. The primary purpose of the preliminary investigation shall be to determine whether there is probable cause to believe that a violation of the standards of conduct has occurred.

(b) The Commission shall determine the nature and scope of the preliminary investigation, including without limitation whether the Executive Director may conduct interviews or depositions, subpoena, request and review records, or otherwise to obtain information reasonably related to the nature and scope of the preliminary investigation from any officer, employee, agency, person or entity.

(c) The Commission may by a vote of five (5) or more members authorize the Executive Director to investigate possible violations of the standards of

conduct that are not stated in the complaint but which are based on information obtained in the course of the investigation of the complaint.

§ 1408. Probable Cause Determination.

(a) After conducting a preliminary investigation under § 1407 of this Chapter, the Executive Director shall make recommendation to the Commission as to whether there is probable cause of a violation of the standards of conduct.

(b) If the Executive Director concludes that there is not probable cause to believe that there has been a violation of the standards of conduct, he or she shall recommend that the Commission dismiss the complaint and request that it notify the complainant in writing of the dismissal. The written notification shall satisfy the Commission's obligation to render an advisory opinion in response to a complaint.

(c) If the Executive Director concludes that there is probable cause to believe that there has been a violation of the standards of conduct, but that the violation was *de minimis*, he or she may recommend that the Commission dismiss the complaint and notify the complainant in writing of the determination. The written notification shall satisfy the Commission's obligation to render an advisory opinion in response to a complaint.

(d) If the Executive Director concludes that there is probable cause to believe that there has been a violation of the Standards of Conduct, he or she shall provide a written recommendation to the Commission containing the basis for his conclusion.

(1) The Commission shall consider the recommendation of the Executive Director and any other information it deems relevant and determine whether there is probable cause to believe that the respondent has violated the standards of conduct.

(2) Neither the complainant nor the respondent has a right to appear or to submit information to the Commission at the probable cause stage, although the Commission may by a vote of five (5) or more members require the complainant or respondent to appear or submit information.

(3) If the Commission determines that probable cause of a violation of the standards of conduct does not exist or there is probable cause of a violation of the standards of conduct, but that the violation was *de minimis*, it may request additional information or it shall dismiss the complaint and notify the complainant and the respondent of its determination in writing.

(4) If the Commission determines that probable cause of a violation of the standards of conduct does exist, it shall issue an Informal Advisory Opinion to the respondent outlining the notice of alleged violation in accordance with these rules. A further statement of the alleged violation shall be personally served upon the alleged violator in accordance with the rules for personal service found in the Guam Rules of Civil Procedure.

(e) The probable cause determination by the Commission shall be held in a confidential meeting.

§ 1409. Informal Advisory Opinion.

If the Commission determines that probable cause of a violation of the Standards of Conduct does exist, it shall issue an Informal Advisory Opinion to the respondent pursuant to 4 GCA § 15401 (b).

(a) The Informal Advisory Opinion shall and include:

(1) An explicit statement in plain language of the factual allegations constituting the alleged violation(s) of the standards of conduct;

(2) The specific provision(s) of the standards of conduct alleged to have been violated;

(3) Notification to the respondent of his or her right to make a written request for a Formal Advisory Opinion or an administrative hearing before the Commission and the time period within which the request for the hearing must be made;

(4) A statement that the respondent may retain legal counsel if the respondent so desires and that an individual may appear on the respondent's behalf; and

(5) A copy of the complaint with, if so warranted after consideration by the Commission, such deletions as may be necessary to prevent the disclosure of the identity of the complainant and witnesses.

(b) The Informal Advisory Opinion may designate the party alleging the violation of the standards of conduct as the complainant and the officer or employee involved as the respondent. Upon a vote of five (5) or more members, the Commission may decide that the Commission itself or its Executive Director be the complainant or may be made a co-complainant.

(c) The Informal Advisory Opinion shall be served in accordance with rules for personal service under the Guam Rules of Civil Procedure. The respondent shall have twenty (20) days after service thereof to respond in writing to the charge and statement.

§ 1410. Response.

The respondent shall respond to the notice of alleged violation within twenty (20) calendar days of receipt. If a timely response is not submitted, the Commission may render its opinion on the basis of the information available, or the Commission or designee may conduct further investigation if additional information is necessary in order to render an advisory opinion.

(a) Respondent Request for Formal Opinion. If the respondent, within twenty (20) calendar days after receipt of a notice of alleged violation via an Informal Advisory Opinion, requests a Formal Advisory Opinion, the Commission shall issue a notice of administrative hearing, setting forth the date, time, place and nature of the hearing and the legal authority under which the hearing is to be held.

(1) A notice of administrative hearing shall be served in accordance with Guam Rules of Civil Procedure.

(2) The Executive Director may, in his or her discretion and as directed by the Commission, conduct further investigation into the complaint prior to the commencement of the hearing.

(b) Compliance with Informal Advisory Opinion. If the respondent, after receipt of an Informal Advisory Opinion outlining the notice of alleged violation, agrees to comply with the Informal Advisory Opinion, the respondent shall have twenty (20) calendar days to comply with the stipulations provided in the Informal Advisory Opinion.

§ 1411. Formal Advisory Opinion.

Within thirty (30) calendar days after a complaint has been submitted to the Commission, or within thirty (30) calendar days after a final hearing or meeting on a complaint shall have been concluded, whichever is later, the Commission shall render a Formal Advisory Opinion.

(a) If the Commission finds that there has been a violation of the standards of conduct, its Formal Advisory Opinion shall contain a recommendation to the respondent's appointing authority or the board or commission, in the case of a board or commission member, of appropriate disciplinary action, and a copy of the advisory opinion shall be provided to

the respondent's appointing authority or the board or commission, in the case of a board or commission member.

(b) The Commission shall provide copies of its Formal Advisory Opinion to the complainant, if known, and to the respondent in accordance with applicable law. The copy of the Formal Advisory Opinion provided to the respondent shall delete information that would disclose the identity of the complainant and witnesses, unless the complainant and witnesses agree to the disclosure of their respective identities.

(c) The Commission shall publish its Formal Advisory Opinion in such form and with such deletions as required or allowed under applicable law.

§ 1412. Administrative Hearing.

(a) Notice, When Conducted.

(1) The respondent may request an administrative hearing, or the Commission may, upon a vote of no less than five (5) members, order an administrative hearing. An administrative hearing may be held by the Commission upon written notice to the parties and participants at least forty-five (45) calendar days prior to the hearing.

(2) The purpose of the administrative hearing is to obtain information or evidence on any matter under investigation or any question before the Commission so that the commission may render a decision.

(b) Procedures.

(1) The Commission or any person with a matter pending before the Commission may request that any officer, employee or other person or entity with information that may be relevant to the matter before the commission appear for the purpose of investigation including, but not limited to, answering questions and producing records.

(2) All parties may request the Commission to issue subpoenas for witnesses and require the production of any books, papers, records, or electronic recordings relative to the proceedings. The Commission or its Executive Director may administer oaths take testimony, and receive evidence.

(3) The officer, employee, person or entity whose presence is requested or subpoenaed may be represented by counsel.

(4) Each party may present witnesses, records or a statement of position, including memoranda, briefs, arguments or other relevant material regarding the matter under investigation.

(5) Each party shall, at least twenty (20) calendar days prior to the hearing, submit eight (8) copies of the following to the Commission:

(A) A written statement of his or her position;

(B) For each witness to be subpoenaed by the Commission, the witness' name, along with address, email address and telephone number, and a summary of the witness' statement; and

(C) A copy of each record to be presented.

(6) The Executive Director shall prepare a memorandum which discusses the issues and includes any staff recommendations. At least seven (7) calendar days prior to the hearing, the staff memorandum shall be provided to members of the Commission, legal counsel for the Commission and the respondent.

(7) The respondent shall have the right to request for an open administrative hearing, in accordance with 4 GCA § 15401(d).

§ 1413. Decision and Order.

(a) Upon conclusion of the administrative hearing, the Commission may render an Formal Advisory Opinion or decision, or the Commission may take other action it deems appropriate under the circumstances.

(b) Within thirty (30) days after the final hearing or meeting has been concluded, the Commission shall render its decision. If the Commission finds that there has been a violation of the standards of conduct, its decision shall contain a recommendation to the respondent's appointing authority or the board or commission, in the case of a board or commission member, of appropriate disciplinary action, and a copy of the decision shall be provided to the respondent's appointing authority or the board or commission, in the case of a board or commission member.

(c) The Commission shall provide copies of its decision to the complainant and to the respondent in such form and with such deletions as may be necessary to prevent the disclosure of the identities of the persons involved unless disclosure is in accordance with applicable law.

(d) The Commission shall publish its decision in such form and with such deletions as required or allowed under applicable law.

§ 1414. Contested Hearings, When Conducted.

(a) A contested administrative hearing shall be conducted when the respondent has requested a contested case hearing within twenty (20) calendar days following the receipt of a Formal Advisory Opinion or decision from the Commission.

(b) A contested administrative hearing may be conducted when determined to be in the public interest by the Commission.

§ 1415. Limited Basis for Release of Employee Information.

It shall not be a violation of 4 GCA § 15401(c) for the Commission to disclose information related to a violation of the ethical standards of conduct to the

Office of the Attorney General or the appointing authority for the employee, or for other good cause, as determined by the Commission.

PROPOSED

CHAPTER 5

DISCLOSURES

§ 1501. Gift Disclosures.

(a) Gifts disclosure statements shall be filed using forms and methods prescribed by the Commission. All officers and employees shall file a gifts disclosure statement with the Commission on or before June 30 of each year if all conditions under 4 GCA § 15202 are met.

(b) The Commission may require that gifts disclosure statements be filed using an electronic filing system.

§ 1502. Financial and Conflict of Interest Disclosures.

(a) The Commission shall receive all financial disclosures filed by officials and employees from the Guam Election Commission (GEC) no later than three (3) working days after receipt of such forms by the GEC.

(b) All officials who have authority to direct how government resources are spent or used shall file a Disclosure of Conflicts of Interest form with the GEC. The Commission shall receive all Disclosure of Conflicts of Interest forms filed with the GEC no later than three (3) working days after receipt of such forms by the GEC. The requirement to file a Disclosure of Conflicts of Interest form shall be a continuing duty.

CHAPTER 6

ETHICS IN GOVERNMENT TRAINING PROGRAM

§ 1601. Applicability.

The Commission shall establish an Ethics in Government Program to provide training on the standard of conduct and related laws administered and enforced by the Commission for:

- (a) Any person who is an elected official of the government of Guam;
- (b) Any person who is appointed to a position as board or commission member, including autonomous agencies, director, deputy director, or by whatever title denotes the head and first assistant of a government of Guam agency, department, public corporation, authority, or any other entity of the executive branch; and
- (c) All government of Guam employees, as defined in § 1105 of this Chapter.

§ 1602. Guidelines.

- (a) Scheduling. The Executive Director shall establish an Ethics Training Calendar to be sent via electronic mail to respective agencies or interested participants. The Calendar shall consist of available dates and hyperlinks embedded within those dates that navigate to the Online Registration Form.
- (b) Rescheduling. Participants who require their Ethics Training date to be rescheduled are advised to contact the Commission or submit a rescheduling request to the Commission via electronic mail forty-eight (48) hours prior to the scheduled training.
- (c) Participation. All participants are required to be present throughout the duration of the Ethics Training. Excusals between training sessions will be at the discretion of the Executive Director in consultation with the employee's supervisor.

(d) Certification. The Commission shall provide participants with certificates of completion who have met all Ethics in Government program guidelines and have paid the training fee established by the Commission.

§ 1603. Tuition Charges.

(a) The Commission shall establish and adopt a training fee at a public and open meeting for each participant in the Ethics in Government program.

(b) The revenue from the Ethics in Government program shall be earmarked to support the operations of the Commission and the direct costs of conducting the training, which include, but are not limited to, instructor compensation, venue, supplies, and certificates.

(c) The Executive Director shall prepare and submit to the Commission an annual report on the following:

(1) The total funds collected and all expenditures under the training fee fund; and

(2) The performance of the training fee fund whenever the Executive Director determines a review of the training fee established by the Commission is necessary.

§ 1604. Compliance Reports.

The Commission shall receive no later than thirty (30) days after the end of each fiscal year Ethics Training Compliance Reports from all government of Guam agencies via electronic submission.

[COGEL Home](#)[Conference Home](#)[Plan your trip](#)[Register Now](#)[Schedule](#)[Program Guide](#)[Dine-Arounds](#)[Testimonials](#)

2022 Conference Schedule*

SUNDAY, DECEMBER 4

10:00 AM - 5:00 PM

Conference Registration

1:30 PM - 3:00 PM

Concurrent Sessions

Pay-to-Play Laws: Developments, Trends and Enforcement

Lobbying During Times of Crisis: Trends in the Virtual Sphere

And You Call That a Thorough Search?

Managing Up: Tools For Keeping Your Volunteer Board and Commission Members Informed, Engaged, and Effective

From Madison Ave to State St: Adapting Branding Best Practices to Serve the Public

3:15 PM - 3:45 PM

Kay Williams First Timers & Conference Preview

4:00 PM - 5:15 PM

Concurrent Sessions

'SHOW ME THE MONEY!' – Is It Getting Harder To Follow?

Too Many Cooks

Investigations and Audits: Best Practices for New Challenges

Foreign Influence Here, There ... and Everywhere? Understanding the Reach of Foreign Interests on Politics

Speed Networking

5:30 PM - 7:00 PM

Welcome Reception

7:00 PM

COGEL Dine-Arounds

MONDAY, DECEMBER 5

7:30 AM - 8:30 AM

Breakfast & Table Topics

8:45 AM - 10:15 AM	Conference Kick-Off & Opening Plenary Session
10:25 AM - 11:55 AM	Concurrent Sessions Campaign Finance Update I Quebec's Lobbyist Registry and The OECD Model: An Inside Look FOI is a COVID Long Hauler How Disinformation Is Keeping People From The Polls Training & Outreach Roundtable
12:00 PM - 1:30 PM	Plenary Luncheon
1:45 PM - 3:15 PM	Concurrent Sessions Crypto Cool or Kryptonite? Regulating Cryptocurrency Contributions to Political Campaigns Ethics Update I But I'm an Advocate, Not a Lobbyist! Regulating Lobbying by the Non-Profit Community Giving Guidance in an Age of Shamelessness Web Analytics are Speaking to You: Are You Listening?
3:30 PM - 4:45 PM	Concurrent Sessions Is Public Service a Blind Trust? Resolving the Ethical Issues of Public Officials Holding Stock Compliance is Way Better Than Enforcement – So How Do We Get It? Lobbying Update I Freedom of Information Roundtable Mastering Public Speaking in 60 Seconds or Less
6:30 PM	COGEL Dine-Arounds
TUESDAY, DECEMBER 6	
7:30 AM - 8:45 AM	Breakfast & Table Topics
9:00 AM - 10:00 AM	Plenary Session & Presentation of the 2022 COGEL Award
10:15 AM - 11:45 AM	Concurrent Sessions Regulating Online Political Ads and the Spread of Disinformation

	All I Hear is Complaints! Strategies For Self-Initiating Enforcement Matters
	Lobbying Update II
	Elections Update
	Post-Covid New Normal
11:45 AM - 1:30 PM	COGEL Dine-Around
1:00 PM - 3:15 PM	New Innovations & Trainings
1:45 PM - 3:15 PM	Concurrent Sessions
	Campaign Finance Update II
	How Much For That Cup of Coffee?
	Freedom of Information (FOI) Legislation and Litigation Update
	Transparency
	DEI
3:30 PM - 5:15 PM	Plenary Session
5:30 PM - 6:30 PM	Annual "Mix and Mingle" Reception
	WEDNESDAY, DECEMBER 7
7:30 AM - 9:00 AM	Breakfast & Annual COGEL Business Meeting
9:15 AM - 10:30 AM	Concurrent Sessions
	David vs. Goliath: Can Public Financing Survive in a World of SuperPACs?
	Ethics Update II
	Pursuing Clarity to Support Compliance: Standards for Transparent and Ethical Lobbying
	Adults in the Room – Strategies to Keep your Compliance Audiences Engaged
	The Great Resignation: As the job market becomes tighter how can government agencies compete to attract and retain employees.
10:45 AM - 12:00 PM	Concurrent Sessions
	Enforcement Update
	FOI and Public/Private Partnerships
	Elections Under Threat: Navigating Microscopic and Systemic Challenges to Democracy
	Personal Financial Disclosure
	Small Staff, Many Mandates: Managing the Multi-Mandate Office

* This is the tentative conference schedule, which will be updated as the COGEL Program Committee finalizes this year's plenary and breakout sessions. Sessions are subject to change.



GUAM ETHICS COMMISSION
Kumisión i Ginihan Areklamenton Guåhan
Government of Guam

Closed Proceedings 4 GCA § 15401

1	ETH-22-004-UT-201
2	ETH-22-005-COI-202
3	ETH-22-012-COI-202
4	ETH-22-013-COI-202
5	ETH-22-019-CI-202
6	ETH-22-020-OT-203
7	ETH-22-021-CI-203