

*I Mina'Trentai Kuåttro Na Liheslaturan*  
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
221-34 (COR)	Michael F.Q. San Nicolas	AN ACT TO <i>AMEND</i> ARTICLE 3 AND <i>REPEAL</i> ARTICLE 4, BOTH OF CHAPTER 15, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE ELECTION OF MEMBERS OF THE GUAM ETHICS COMMISSION.	12/20/17 3:36 p.m.						

***I MINA 'TRENTAI KUATTRO NA LIHESLATURAN GUÅHAN***  
**2017 (FIRST) Regular Session**

Bill No. 221-34 (COR)

Introduced by:

Michael F.Q. San Nicolas 

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**AN ACT TO *AMEND* ARTICLE 3 AND *REPEAL* ARTICLE 4,  
BOTH OF CHAPTER 15, TITLE 4, GUAM CODE  
ANNOTATED, RELATIVE TO THE ELECTION OF  
MEMBERS OF THE GUAM ETHICS COMMISSION.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that in the Twenty-Third (23<sup>rd</sup>) Guam Legislature, Vice Speaker Ted S. Nelson, Senator Ben Pangelinan, and Senator Tom Ada introduced Bill No. 58 (LS), which was enacted as Public Law 23-105 on July 15, 1996, prescribing the Standards of Conduct for public and appointed officials, and employees of the government of Guam, and establishing the Guam Ethics Commission, comprised of members appointed by *I Maga'låhen Guåhan* from a panel nominated by the Judicial Council.

*I Liheslatura* further finds that in the Twenty-Sixth (26<sup>th</sup>) Guam Legislature, Speaker Mark Forbes introduced Bill No. 241 (LS), which was enacted as Public Law 26-76, which abolishes all boards, commissions, councils or oversight bodies that have not met in the last twelve (12) months upon passage of the law. Public Law 26-76 inadvertently repealed the Guam Ethics Commission.

*I Liheslatura* further finds that in the Twenty-Seventh (27<sup>th</sup>) Guam Legislature, Senator Ben Pangelinan introduced Bill No. 382 (COR), which was enacted as Public Law 27-141, which re-established the Guam Ethics Commission, comprised of members appointed solely by *I Maga'låhen Guåhan*.



1                   (1) ~~It shall prescribe a form for the financial disclosures required~~  
2 ~~by § 15208 and shall establish an orderly procedure for implementing~~  
3 ~~the requirements of that Section.~~

4                   (2) ~~It shall render advisory opinions upon the request of any~~  
5 ~~employee or former employee as to whether the facts and circumstances~~  
6 ~~of a particular case constitutes or will constitute a violation of the code~~  
7 ~~of ethics. The opinion rendered, until amended or revoked, shall be~~  
8 ~~binding on the Commission in any subsequent charges concerning the~~  
9 ~~employee or former employee who sought the opinion and acted in~~  
10 ~~reliance on it in good faith, unless material facts were omitted or~~  
11 ~~misstated by the employee or former employee in the request for an~~  
12 ~~advisory opinion.~~

13                  (3) ~~It shall initiate, receive and consider charges concerning~~  
14 ~~alleged violations of this Chapter, initiate or make investigations, and~~  
15 ~~hold hearings.~~

16                  (4) ~~It may subpoena witnesses, administer oaths, and take~~  
17 ~~testimony relating to matters before the Commission and require the~~  
18 ~~production for examination of any books, papers or electronic records~~  
19 ~~relative to any matter under investigation or in question before the~~  
20 ~~Commission. Before the Commission shall exercise any of the powers~~  
21 ~~authorized herein with respect to any investigation or hearings, it shall~~  
22 ~~by formal resolution, supported by a vote of five or more members of~~  
23 ~~the Commission, define the nature and scope of its inquiry.~~

24                  (5) ~~It may, from time to time, make, amend, and repeal such rules~~  
25 ~~and regulations, not inconsistent with this Chapter as in the opinion of~~  
26 ~~the Commission, seem appropriate for the carrying out of this Chapter~~  
27 ~~for the efficient administration thereof, including every matter or thing~~

1           ~~required to be done or which may be done with the approval or consent~~  
2           ~~or by order or under the direction or supervision of or as prescribed by~~  
3           ~~the Commission. The rules and regulations, shall be adopted in~~  
4           ~~conformance with the Administrative Adjudication Law, and shall have~~  
5           ~~the force and effect of law.~~

6           ~~(6) It shall have jurisdiction for purposes of investigation and~~  
7           ~~taking appropriate action on alleged violations of this Chapter in all~~  
8           ~~proceedings commenced within three (3) years of an alleged violation~~  
9           ~~of this Chapter by an employee, or a former employee. Nothing herein~~  
10          ~~shall bar proceedings against a person who by fraud or other device,~~  
11          ~~prevents discovery of a violation of this Chapter. A proceeding shall be~~  
12          ~~deemed commenced by the signing of a charge by five (5) or more~~  
13          ~~members of the Commission.~~

14          ~~(7) It shall distribute its publications without cost to the public~~  
15          ~~and shall initiate and maintain programs with the purpose of educating~~  
16          ~~the citizenry and employees on matters of ethics in government~~  
17          ~~employment.~~

18          ~~(b) Charges concerning the violation of this Chapter shall be in writing,~~  
19          ~~signed by the person making the charge under oath, except that any charge~~  
20          ~~initiated by the Commission must be signed by five (5) or more members of~~  
21          ~~the Commission. The Commission shall notify in writing every person against~~  
22          ~~whom a charge is received and afford him an opportunity to explain the~~  
23          ~~conduct alleged to be in violation of this Chapter. The Commission may~~  
24          ~~investigate, after compliance with this Section, such charges and render an~~  
25          ~~informal advisory opinion to the alleged violator. The Commission shall~~  
26          ~~investigate all charges on a confidential basis, having available all the powers~~  
27          ~~herein provided, and proceedings at this stage shall not be public. If the~~

1 ~~informal advisory opinion indicates a probable violation, the person charged~~  
2 ~~*shall* request a formal opinion or within a reasonable time comply with the~~  
3 ~~informal advisory opinion. If the person charged fails to comply with such~~  
4 ~~informal advisory opinion or if a majority of the members of the Commission~~  
5 ~~determine that there is a probable cause for belief that a violation of this~~  
6 ~~Chapter might have occurred, a copy of the charge and a further statement of~~  
7 ~~the alleged violation *shall* be personally served upon the alleged violator in~~  
8 ~~accordance with the rules for personal service found in Guam Rules of Civil~~  
9 ~~Procedure. The person so charged *shall* have twenty (20) days after service~~  
10 ~~thereof to respond in writing to the charge and statement.~~

11 ~~(c) Any Commission member or any individual, including the~~  
12 ~~individual making the charge, who without permission of the Commission,~~  
13 ~~divulges information obtained from the Commission or who reveals~~  
14 ~~confidential actions of or what happened in closed proceedings before the~~  
15 ~~Commission concerning the charge prior to the issuance of the complaint or~~  
16 ~~other final action by the Commission, except as permitted by this Chapter,~~  
17 ~~*shall* be guilty of a misdemeanor.~~

18 ~~(d) If after twenty (20) days following personal service, a majority of~~  
19 ~~the members of the Commission conclude that there is reason to believe that~~  
20 ~~a violation of this Chapter has been committed, then the Commission *shall* set~~  
21 ~~a time and place for a hearing, giving notice to the complainant and the alleged~~  
22 ~~violator. All parties *shall* have an opportunity (1) to be heard, (2) to subpoena~~  
23 ~~witnesses and require the production of any books, papers, records, or~~  
24 ~~electronic recordings relative to the proceedings, (3) to be represented by~~  
25 ~~counsel, and (4) to have the right of cross-examination. All witnesses *shall*~~  
26 ~~testify under oath and the hearings *shall* be closed to the public unless the~~  
27 ~~party complained against requests an open hearing. The Commission *shall* not~~

1 be bound by the strict rules of evidence but the Commission's findings must  
2 be based upon competent and substantial evidence. All testimony and other  
3 evidence taken at the hearing *shall* be recorded. Copies of transcripts of such  
4 record *shall* be available only to the complainant and the alleged violator at  
5 their own expense, and the fees therefor *shall* be deposited into the General  
6 Fund.

7 (e) The Commission *shall* make its findings and render its decision  
8 based on a preponderance of the evidence. A decision of the Commission  
9 pertaining to the conduct of any employee *shall* be in writing and signed by  
10 five (5) or more of the members of the Commission. Deliberations of the  
11 Commission *shall* be closed to the public and to all parties.

12 (f) The Commission *shall* cause to be published yearly summaries of  
13 decisions, advisory opinions, and informal advisory opinions. The  
14 Commission *shall* make sufficient deletions in the summaries to prevent  
15 disclosing the identity of persons involved in the decisions or opinions.

16 **§ 15402. Filing of False Charges.**

17 (a) Any person who knowingly and intentionally files a false charge  
18 with the commission, or any member of the commission who initiates action  
19 against any Guam official, Guam employee, or any other person covered by  
20 this chapter, knowing such charge to be false, *shall* be guilty of the crime of  
21 perjury and subject to the penalty set forth in Title 9 of Guam Code Annotated  
22 (Crimes and Corrections).

23 (b) Whoever is convicted in a court of competent jurisdiction of the  
24 crime of perjury under this section, in addition to any other punishment  
25 prescribed by law thereof, *shall* be required by court order to reimburse the  
26 person against whom the false charge was filed for all of the person's legal

1 ~~expenses and court costs incurred in relation to that person's defense against~~  
2 ~~the false complaint.~~

3 ~~(c) If such charge is filed within six months prior to an election in which~~  
4 ~~the accused's name appears on the ballot, the person filing the false complaint~~  
5 ~~shall pay to the accused the amount set out above, and shall also pay an equal~~  
6 ~~amount to the general fund of the Territory.~~

7 ~~(d) This section shall not supersede or preclude any other right or~~  
8 ~~remedy at law available to the person falsely accused.~~

9 ~~§ 15403. Procedure.~~

10 ~~(a) When the Commission, after due hearings, believes that there is~~  
11 ~~cause for the possible filing of criminal charges, it shall refer the complaint to~~  
12 ~~the Attorney General's Office or appropriate authority for its disposition.~~

13 ~~(b) With respect to former employees, the Commission may, with the~~  
14 ~~consent of five (5) or more members of the Commission, issue a public~~  
15 ~~statement of its findings and conclusions, and the Attorney General may~~  
16 ~~exercise whatever legal or equitable remedies are available to the Territory.~~

17 ~~(c) When after due hearing, the Commission finds that the violation~~  
18 ~~committed by an employee is non-criminal in nature, the Commission will~~  
19 ~~remand the case to the agency where the employee is employed with the~~  
20 ~~recommendation that the agency impose the corresponding punishment in~~  
21 ~~accordance with the agency's personnel rules and regulations.~~

22 **~~§ 15404. Disciplinary Action for Violation.~~**

23 ~~In addition to any other powers the Civil Service Commission or other~~  
24 ~~government agency may have to discipline employees, the appropriate agency~~  
25 ~~involved may reprimand, put on probation, demote, suspend, or discharge any~~  
26 ~~employee found to have violated this Chapter.~~

27 **~~§ 15405. Cooperation.~~**



1           ~~The Guam Ethics Commission may request and *shall* receive from~~  
2           ~~every governmental agency cooperation and assistance in the performance of~~  
3           ~~its duties.~~

4           **~~§ 15406. Concurrent Jurisdiction.~~**

5           ~~In addition to any provision contained in this Chapter, the Legislature~~  
6           ~~and the Judicial Branch may each prescribe further rules of conduct covering~~  
7           ~~its members and may investigate and discipline its employees for any~~  
8           ~~violation of this Chapter, or its own Rules, or both.~~

9           **~~§ 15407. Staff.~~**

10          ~~The Guam Ethics Commission may employ such persons as it deems~~  
11          ~~necessary for the performance of its functions. They *shall* submit an annual~~  
12          ~~budget request to the Legislature for its required operations.~~

13          **~~§ 15408. Prohibition from Political Activity.~~**

14          ~~Members of the ethics commission and its staff *shall* not take an active~~  
15          ~~part in political management or in political campaigns during the term of~~  
16          ~~office or employment.~~

17          **~~§ 15409. Applicability of Ethics in Government Program.~~**

18          ~~(a) Any person who is an elected official of the government of Guam~~  
19          ~~*shall* attend an ethics in government program within ninety (90) days of taking~~  
20          ~~office. Additionally, elected officials *shall* undergo refresher ethics in~~  
21          ~~government program at least once every four (4) years. The Guam Ethics~~  
22          ~~Commission (“Commission”) may grant permission for an elected official to~~  
23          ~~attend a later program for good cause shown. The Commission *shall* award a~~  
24          ~~certificate of completion to those completing the program.~~

25          ~~(b) Any person who is appointed to a position as board or commission~~  
26          ~~member, including autonomous agencies, director, deputy director, or by~~  
27          ~~whatever title denotes the head and first assistant of a government of Guam~~

1       ~~agency, department, public corporation, authority, or any other entity of the~~  
2       ~~executive branch, shall attend an ethics in government program within the~~  
3       ~~first six (6) months of his or her appointment. Additionally, appointed officials~~  
4       ~~shall undergo refresher ethics in government program at least once every four~~  
5       ~~(4) years. The Commission may grant permission for an appointed official to~~  
6       ~~attend a later program for good cause shown. The Commission shall award a~~  
7       ~~certificate of completion to those completing the program.~~

8       **~~§ 15410. Ethics in Government Program Guidelines.~~**

9               ~~The ethics in government program shall be provided by the University~~  
10       ~~of Guam (“UOG”) or other providers. The Public Auditor shall develop~~  
11       ~~standards for the ethics program until the Guam Ethics Commission is~~  
12       ~~appointed and functioning, at which time the Commission shall assume~~  
13       ~~authority to develop the standards. The providers shall repeat the course as~~  
14       ~~necessary to accommodate those who are required to attend. The course shall~~  
15       ~~not exceed four (4) hours and shall be available in a single day and its~~  
16       ~~scheduling shall accommodate the different work schedules of the persons~~  
17       ~~affected by this Act.~~

18               ~~(a) The program topics shall include, but not be limited to:~~

- 19                       ~~(1) Guam statutes concerning ethics;~~  
20                       ~~(2) Guam statutes concerning lobbying;~~  
21                       ~~(3) Group participation in discussing, analyzing, and solving~~  
22       ~~general ethics related dilemmas;~~  
23                       ~~(4) Guam procurement laws and regulations;~~  
24                       ~~(5) Guam contracting laws and regulations;~~  
25                       ~~(6) Parliamentary procedure;~~  
26                       ~~(7) Fiduciary responsibility;~~  
27                       ~~(8) Personnel policy;~~

~~(9) Government finance; and~~

~~(10) Open Government Law and Sunshine Reform Act of 1999.~~

~~(b) The cost of tuition, books and training materials for the ethics in government program of the officials specified in §15409(b) of this Chapter, shall be paid by the agency that employs the official.~~

~~§ 15411. Judicial Branch.~~

~~The Chief Justice of the Supreme Court *shall* have jurisdiction and governance over all justices and judges of the judicial branch in matters of ethics as covered in this Chapter 15.~~

~~§15412. Repeal.~~

~~Those portions of the Guam Code Annotated and the Government Code of Guam, which are in conflict with any section of this Chapter, are hereby repealed.~~

~~§ 15413. Severability.~~

~~If any part of this Chapter 15 shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, or invalid as applied to a class of cases, such judgment shall not affect, impair, or invalidate the remainder thereof, and shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall have been rendered.”~~

**Section 3.** Article 3 of Chapter 15, Title 4, Guam Code Annotated, is hereby *amended* to read:

## “ARTICLE 3

**GUAM ETHICS COMMISSION**

§ 15301. Guam Ethics Commission Established.

§ 15302. Commissioners.

§ 15303. Non-partisan Office.

1       § 15304.   Reporting Requirements.  
2       § 15305.   Terms of Office.  
3       § 15306.   Vacancies.  
4       § 15307.   Compensation.  
5       § 15308.   Duties of Commission; Complaint, Hearing, Determination.  
6       § 15309.   Filing of False Charges.  
7       § 15310.   Procedure.  
8       § 15311.   Disciplinary Action for Violation.  
9       § 15312.   Cooperation.  
10      § 15313.   Concurrent Jurisdiction.  
11      § 15314.   Staff.  
12      § 15315.   Prohibition From Political Activity.  
13      § 15316.   Applicability of Ethics in Government Program.  
14      § 15317.   Ethics in Government Program Guidelines.  
15      § 15318.   Judicial Branch.  
16      § 15319.   Repeal.  
17      § 15320.   Severability.

18  
19      **§ 15301. Guam Ethics Commission Established; ~~Composition.~~**

20           There *shall* be within the government of Guam, a commission to be  
21      known as the ‘Guam Ethics Commission’ elected by the registered voters of  
22      Guam. ~~The Commission shall consist of seven (7) members to be appointed~~  
23      ~~by I-Maga’lahi. Each appointee shall be a United States citizen and a bona~~  
24      ~~fide resident of Guam. No person who has ever been convicted of a felony~~  
25      ~~shall be eligible to serve on the Commission. Members of the Commission~~  
26      ~~shall not be an employee, as defined herein, or have any member of their~~

1 ~~immediate family employed by the government of Guam. All appointments~~  
2 ~~to the Guam Ethics Commission shall be confirmed by I Liheslatura.~~

3 ~~The Chairman of the Commission shall be elected by the majority of~~  
4 ~~the Commission. The term of office of each member shall be for four (4)~~  
5 ~~years, provided that of the original members, two (2) shall hold office for two~~  
6 ~~(2) years, two (2) shall hold office for three (3) years, and one (1) shall hold~~  
7 ~~office for four (4) years. The determination of these members' length of office~~  
8 ~~shall be by lot drawn by the members at their initial meeting. No person shall~~  
9 ~~be appointed consecutively to more than two (2) terms as a member of the~~  
10 ~~Commission.~~

11 ~~Members shall serve without compensation, except that they shall~~  
12 ~~receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four (4)~~  
13 ~~meetings per calendar month, and shall be compensated for all normal~~  
14 ~~expenses of travel, and for the cost of meals while in session.~~

15 ~~Vacancies shall be filled for the remainder of the unexpired term in the~~  
16 ~~same manner as the original appointments. I Maga'lahi may remove or~~  
17 ~~suspend any member of the Commission for cause, upon the filing of a written~~  
18 ~~finding with the Commission and upon service of a copy of the written~~  
19 ~~findings on the member removed or suspended.~~

20 **§ 15302. Commissioners.**

21 The Commission shall consist of seven (7) members elected at-large by  
22 the voters of Guam in a General Election. To be eligible to serve as a  
23 Commissioner, a person must be a registered voter of Guam and a minimum  
24 of twenty-five (25) years of age, and shall have been a resident of Guam for  
25 at least five (5) years immediately prior to the date of the Commissioner's  
26 election. No person who has ever been convicted of a felony shall be eligible  
27 to serve on the Commission. Commissioners shall not be an employee, as

1 defined herein, or have any member of their immediate family employed by  
2 the government of Guam.

3 At their first official meeting, the Commissioners shall elect from  
4 among the Commissioners a chairperson, who shall preside over meetings of  
5 the Commission. A majority of the Commissioners holding office shall  
6 constitute a quorum. The affirmative vote of the Commissioners holding  
7 office shall constitute the decision of the Commission. The Commission may  
8 adopt rules and regulations governing the conduct of its affairs.

9 **§ 15303. Non-partisan Office.**

10 The Office of Ethics Commissioner is a non-partisan office. Candidates  
11 for the Office of Ethics Commissioner shall not identify themselves as  
12 members of any political party on Guam for the purpose of their campaign,  
13 nor shall they receive any endorsement or material support from any political  
14 party on Guam during the course of their campaigns. No Primary Election is  
15 required for candidates for this office. No nominating petitions shall be  
16 required of any candidate for this Office. Any qualified person applying to the  
17 Guam Election Commission, or its successor, for candidacy to this office shall  
18 be placed on the General Election ballot. In each election, the candidates  
19 receiving the highest numbers of votes shall be the elected Commissioners,  
20 without regard to the actual number of votes cast or received, and no runoff  
21 elections shall be required.

22 **§ 15304. Reporting Requirements.**

23 Commissioners and candidates for the Office of Ethics Commissioner  
24 shall be subject to the same reporting requirements pertaining to their  
25 campaign contributions and expenditures as apply to candidates and members  
26 of I Liheslaturan Guåhan. Commissioners and candidates for the Office of

1 Ethics Commissioner shall be required to file a personal disclosure statement  
2 that shall contain the following items:

3 (a) the source of all wages and commissions paid to the  
4 Commissioner, or candidate for the Office of Ethics Commissioner;

5 (b) a list of all corporations or partnerships in which the  
6 Commissioner, or candidate for the Office of Ethics Commissioner, has  
7 a material interest of five percent (5%) or greater; and

8 (c) a list of all corporations, partnerships or sole proprietorships  
9 in which the Commissioner, or candidate for the Office of Ethics  
10 Commissioner, has a material interest of fifty percent (50%) or more.

11 A candidate for the Office of Ethics Commissioner shall be required to  
12 file the personal disclosure statement required by this Section with the Guam  
13 Election Commission upon filing that person's candidacy with the Guam  
14 Election Commission. A Commissioner is required to file the personal  
15 disclosure statement required by this Section on an annual basis on the same  
16 dates personal financial disclosures are required from members of I  
17 LiheSlaturan Guåhan.

18 **§ 15305. Terms of Office.**

19 (a) Except as provided in § 15306 and in Subsection (b) of this Section,  
20 each Commissioner shall be elected to serve a term of four (4) years,  
21 commencing on the First (1st) day of January following their election.

22 (b) The first election for members of the Commission shall occur during  
23 the General Election in November, 2018. Of the original Commissioners  
24 elected, two (2) shall hold office for two (2) years, two (2) shall hold office  
25 for three (3) years, and one (1) shall hold office for four (4) years. The  
26 determination of these members' length of office shall be by lot drawn by the

1 members at their initial meeting. No person *shall* be elected consecutively to  
2 more than two (2) terms as a member of the Commission.

3 **§ 15306. Vacancies.**

4 (a) A permanent vacancy in the Office of an Ethics Commissioner *shall*  
5 be filled as follows:

6 (1) If the vacancy to be filled is for twelve (12) months or more,  
7 the vacancy *shall* be filled by the next highest vote-getter in the last  
8 General Election for Commissioner.

9 (2) If the vacancy to be filled is for less than twelve (12) months,  
10 the position *shall* remain vacant until the next General Election. For the  
11 purpose of items (1) and (2) in determining how many months  
12 remaining on the vacant position, the effective date of vacancy *shall* be  
13 the date from which to measure the months remaining, and not the date  
14 when the vacancy is actually filled.

15 (b) The vacancy being filled under this provision will be for the  
16 remaining balance of the term of the vacated position.

17 **§ 15307. Compensation.**

18 Members *shall* serve without compensation, except that they *shall*  
19 receive a stipend of Fifty Dollars (\$50.00) per meeting not to exceed four (4)  
20 meetings per calendar month, and *shall* be compensated for all normal  
21 expenses of travel, and for the cost of meals while in session.

22 **§ 15308. Duties of Commission; Complaint, Hearing, Determination.**

23 (a) The Commission *shall* have the following powers and duties:

24 (1) It *shall* prescribe a form for the financial disclosures required  
25 by § 15208 and *shall* establish an orderly procedure for implementing  
26 the requirements of that Section.



1           (2) It shall render advisory opinions upon the request of any  
2           employee or former employee as to whether the facts and circumstances  
3           of a particular case constitutes or will constitute a violation of the code  
4           of ethics. The opinion rendered, until amended or revoked, shall be  
5           binding on the Commission in any subsequent charges concerning the  
6           employee or former employee who sought the opinion and acted in  
7           reliance on it in good faith, unless material facts were omitted or  
8           misstated by the employee or former employee in the request for an  
9           advisory opinion.

10           (3) It shall initiate, receive and consider charges concerning  
11           alleged violations of this Chapter, initiate or make investigations, and  
12           hold hearings.

13           (4) It may subpoena witnesses, administer oaths, and take  
14           testimony relating to matters before the Commission and require the  
15           production for examination of any books, papers or electronic records  
16           relative to any matter under investigation or in question before the  
17           Commission. Before the Commission shall exercise any of the powers  
18           authorized herein with respect to any investigation or hearings, it shall  
19           by formal resolution, supported by a vote of five or more members of  
20           the Commission, define the nature and scope of its inquiry.

21           (5) It may, from time to time, make, amend, and repeal such rules  
22           and regulations, not inconsistent with this Chapter as in the opinion of  
23           the Commission, seem appropriate for the carrying out of this Chapter  
24           for the efficient administration thereof, including every matter or thing  
25           required to be done or which may be done with the approval or consent  
26           or by order or under the direction or supervision of or as prescribed by  
27           the Commission. The rules and regulations, shall be adopted in

1 conformance with the Administrative Adjudication Law, and *shall* have  
2 the force and effect of law.

3 (6) It *shall* have jurisdiction for purposes of investigation and  
4 taking appropriate action on alleged violations of this Chapter in all  
5 proceedings commenced within three (3) years of an alleged violation  
6 of this Chapter by an employee, or a former employee. Nothing herein  
7 *shall* bar proceedings against a person who by fraud or other device,  
8 prevents discovery of a violation of this Chapter. A proceeding *shall* be  
9 deemed commenced by the signing of a charge by five (5) or more  
10 members of the Commission.

11 (7) It *shall* distribute its publications without cost to the public  
12 and *shall* initiate and maintain programs with the purpose of educating  
13 the citizenry and employees on matters of ethics in government  
14 employment.

15 (b) Charges concerning the violation of this Chapter *shall* be in writing,  
16 signed by the person making the charge under oath, except that any charge  
17 initiated by the Commission must be signed by five (5) or more members of  
18 the Commission. The Commission *shall* notify in writing every person against  
19 whom a charge is received and afford him an opportunity to explain the  
20 conduct alleged to be in violation of this Chapter. The Commission may  
21 investigate, after compliance with this Section, such charges and render an  
22 informal advisory opinion to the alleged violator. The Commission *shall*  
23 investigate all charges on a confidential basis, having available all the powers  
24 herein provided, and proceedings at this stage *shall* not be public. If the  
25 informal advisory opinion indicates a probable violation, the person charged  
26 *shall* request a formal opinion or within a reasonable time comply with the  
27 informal advisory opinion. If the person charged fails to comply with such

1 informal advisory opinion or if a majority of the members of the Commission  
2 determine that there is a probable cause for belief that a violation of this  
3 Chapter might have occurred, a copy of the charge and a further statement of  
4 the alleged violation shall be personally served upon the alleged violator in  
5 accordance with the rules for personal service found in Guam Rules of Civil  
6 Procedure. The person so charged shall have twenty (20) days after service  
7 thereof to respond in writing to the charge and statement.

8 (c) Any Commission member or any individual, including the  
9 individual making the charge, who without permission of the Commission,  
10 divulges information obtained from the Commission or who reveals  
11 confidential actions of or what happened in closed proceedings before the  
12 Commission concerning the charge prior to the issuance of the complaint or  
13 other final action by the Commission, except as permitted by this Chapter,  
14 shall be guilty of a misdemeanor.

15 (d) If after twenty (20) days following personal service, a majority of  
16 the members of the Commission conclude that there is reason to believe that  
17 a violation of this Chapter has been committed, then the Commission shall set  
18 a time and place for a hearing, giving notice to the complainant and the alleged  
19 violator. All parties shall have an opportunity (1) to be heard, (2) to subpoena  
20 witnesses and require the production of any books, papers, records, or  
21 electronic recordings relative to the proceedings, (3) to be represented by  
22 counsel, and (4) to have the right of cross-examination. All witnesses shall  
23 testify under oath and the hearings shall be closed to the public unless the  
24 party complained against requests an open hearing. The Commission shall not  
25 be bound by the strict rules of evidence but the Commission's findings must  
26 be based upon competent and substantial evidence. All testimony and other  
27 evidence taken at the hearing shall be recorded. Copies of transcripts of such

1 record shall be available only to the complainant and the alleged violator at  
2 their own expense, and the fees therefor shall be deposited into the General  
3 Fund.

4 (e) The Commission shall make its findings and render its decision  
5 based on a preponderance of the evidence. A decision of the Commission  
6 pertaining to the conduct of any employee shall be in writing and signed by  
7 five (5) or more of the members of the Commission. Deliberations of the  
8 Commission shall be closed to the public and to all parties.

9 (f) The Commission shall cause to be published yearly summaries of  
10 decisions, advisory opinions, and informal advisory opinions. The  
11 Commission shall make sufficient deletions in the summaries to prevent  
12 disclosing the identity of persons involved in the decisions or opinions.

13 **§ 15309. Filing of False Charges.**

14 (a) Any person who knowingly and intentionally files a false charge  
15 with the commission, or any member of the commission who initiates action  
16 against any Guam official, Guam employee, or any other person covered by  
17 this chapter, knowing such charge to be false, shall be guilty of the crime of  
18 perjury and subject to the penalty set forth in Title 9 of Guam Code Annotated  
19 (Crimes and Corrections).

20 (b) Whoever is convicted in a court of competent jurisdiction of the  
21 crime of perjury under this section, in addition to any other punishment  
22 prescribed by law thereof, shall be required by court order to reimburse the  
23 person against whom the false charge was filed for all of the person's legal  
24 expenses and court costs incurred in relation to that person's defense against  
25 the false complaint.

26 (c) If such charge is filed within six months prior to an election in which  
27 the accused's name appears on the ballot, the person filing the false complaint

1 shall pay to the accused the amount set out above, and shall also pay an equal  
2 amount to the general fund of the Territory.

3 (d) This section shall not supersede or preclude any other right or  
4 remedy at law available to the person falsely accused.

5 **§ 15310. Procedure.**

6 (a) When the Commission, after due hearings, believes that there is  
7 cause for the possible filing of criminal charges, it shall refer the complaint to  
8 the Attorney General's Office or appropriate authority for its disposition.

9 (b) With respect to former employees, the Commission may, with the  
10 consent of five (5) or more members of the Commission, issue a public  
11 statement of its findings and conclusions, and the Attorney General may  
12 exercise whatever legal or equitable remedies are available to the Territory.

13 (c) When after due hearing, the Commission finds that the violation  
14 committed by an employee is non-criminal in nature, the Commission will  
15 remand the case to the agency where the employee is employed with the  
16 recommendation that the agency impose the corresponding punishment in  
17 accordance with the agency's personnel rules and regulations.

18 **§ 15311. Disciplinary Action for Violation.**

19 In addition to any other powers the Civil Service Commission or other  
20 government agency may have to discipline employees, the appropriate agency  
21 involved may reprimand, put on probation, demote, suspend, or discharge any  
22 employee found to have violated this Chapter.

23 **§ 15312. Cooperation.**

24 The Guam Ethics Commission may request and shall receive from  
25 every governmental agency cooperation and assistance in the performance of  
26 its duties.

27 **§ 15313. Concurrent Jurisdiction.**

1           In addition to any provision contained in this Chapter, the Legislature  
2           and the Judicial Branch may each prescribe further rules of conduct covering  
3           its members and may investigate and discipline its employees for any  
4           violation of this Chapter, or its own Rules, or both.

5           **§ 15314. Staff.**

6           The Guam Ethics Commission may employ such persons as it deems  
7           necessary for the performance of its functions. They *shall* submit an annual  
8           budget request to the Legislature for its required operations.

9           **§ 15315. Prohibition from Political Activity.**

10           Members of the ethics commission and its staff *shall* not take an active  
11           part in political management or in political campaigns during the term of  
12           office or employment.

13           **§ 15316. Applicability of Ethics in Government Program.**

14           (a) Any person who is an elected official of the government of Guam  
15           *shall* attend an ethics in government program within ninety (90) days of taking  
16           office. Additionally, elected officials *shall* undergo refresher ethics in  
17           government program at least once every four (4) years. The Guam Ethics  
18           Commission (“Commission”) may grant permission for an elected official to  
19           attend a later program for good cause shown. The Commission *shall* award a  
20           certificate of completion to those completing the program.

21           (b) Any person who is appointed to a position as board or commission  
22           member, including autonomous agencies, director, deputy director, or by  
23           whatever title denotes the head and first assistant of a government of Guam  
24           agency, department, public corporation, authority, or any other entity of the  
25           executive branch, *shall* attend an ethics in government program within the  
26           first six (6) months of his or her appointment. Additionally, appointed officials  
27           *shall* undergo refresher ethics in government program at least once every four

1       (4) years. The Commission may grant permission for an appointed official to  
2       attend a later program for good cause shown. The Commission shall award a  
3       certificate of completion to those completing the program.

4       **§ 15317. Ethics in Government Program Guidelines.**

5       The ethics in government program shall be provided by the University  
6       of Guam (“UOG”) or other providers. The Public Auditor shall develop  
7       standards for the ethics program until the Guam Ethics Commission is  
8       appointed and functioning, at which time the Commission shall assume  
9       authority to develop the standards. The providers shall repeat the course as  
10       necessary to accommodate those who are required to attend. The course shall  
11       not exceed four (4) hours and shall be available in a single day and its  
12       scheduling shall accommodate the different work schedules of the persons  
13       affected by this Act.

14       (a) The program topics shall include, but not be limited to:

15               (1) Guam statutes concerning ethics;

16               (2) Guam statutes concerning lobbying;

17               (3) Group participation in discussing, analyzing, and solving  
18       general ethics-related dilemmas;

19               (4) Guam procurement laws and regulations;

20               (5) Guam contracting laws and regulations;

21               (6) Parliamentary procedure;

22               (7) Fiduciary responsibility;

23               (8) Personnel policy;

24               (9) Government finance; and

25               (10) Open Government Law and Sunshine Reform Act of 1999.

1           (b) The cost of tuition, books and training materials for the ethics in  
2           government program of the officials specified in §15316(b) of this Chapter,  
3           shall be paid by the agency that employs the official.

4           **§ 15318. Judicial Branch.**

5           The Chief Justice of the Supreme Court shall have jurisdiction and  
6           governance over all justices and judges of the judicial branch in matters of  
7           ethics as covered in this Chapter 15.

8           **§ 15319. Repeal.**

9           Those portions of the Guam Code Annotated and the Government Code  
10          of Guam, which are in conflict with any section of this Chapter, are hereby  
11          repealed.

12          **§ 15320. Severability.**

13          If any part of this Chapter 15 shall, for any reason, be adjudged by a  
14          court of competent jurisdiction to be invalid, or invalid as applied to a class  
15          of cases, such judgment shall not affect, impair, or invalidate the remainder  
16          thereof, and shall be confined in its operation to the part thereof directly  
17          involved in the controversy in which such judgment shall have been  
18          rendered.”