



**4 G.C.A., CHAPTER 5
POLITICAL ACTIVITY
OF
EMPLOYEES OF THE
GOVERNMENT OF GUAM**



**GOVERNMENT OF GUAM
CIVIL SERVICE COMMISSION
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Did you know?

On June 15, 2012, Acting Governor Ray Tenorio signed Public Law 31-217, which removed many prohibitions against political activity formerly in place for most government of Guam employees.

Public Law 31-217 also created two groups of employees – a less restricted group and a more restricted group.

1. Who is covered?

In general, employees in the Executive Branch of the government of Guam, including autonomous and semi-autonomous agencies, or in the Judicial Branch, and whether in the classified or unclassified service are subject to political activity restrictions.

“Employees” includes a person on administrative, annual, or sick leave unless such person has resigned and has received a lump-sum payment for such leave. It includes persons not providing professional services for a specific fee who are hired on a temporary, part-time, emergency or casual basis.

2. Who is not covered?

A few exceptions are made, including the following:

- ~ A person holding elective office;
- ~ A special or Staff Assistant to the Governor;
- ~ A person appointed by the Governor with the consent of the Legislature;

- ~ A person retained from time to time to perform professional or special services for a specific fee; and
- ~ A person working on a casual basis on the days he performs no services.

THINGS TO REMEMBER:

- Although as a less restricted employee you may now actively campaign in partisan elections, you should never do so while wearing a government of Guam uniform or official insignia.
- Never use your official title or position while engaged in political activity.
- Never invite subordinate employees to political events.

Everyone is covered under 4 G.C.A. §5106

Everyone, whether or not an employee of the government of Guam, is prohibited from any form of solicitation for any political purpose, in any government of Guam room or building, whether it is within the Executive, Legislative, or Judicial Branch.

NOTE: Any person who violates this section would be guilty of a misdemeanor.

See 4 G.C.A. §5106

Political activity is governed by 4 G.C.A. § 5101 et seq. These statutes are commonly known as the “Mini-Hatch Act.” You can access the law in full at website of the

Compiler of Laws at
<http://www.guamcourts.org/CompilerofLaws/index.html>.

3. What if I want to report a violation?

Pursuant to 4 G.C.A. § 5105, the Civil Service Commission is empowered to undertake investigations of reports of violations of the Mini-Hatch Act. You can submit a complaint by making a written report to the Civil Service Commission at its office in Sinajana or by faxing its office at (671) 647-1867.

4. What are the penalties for violating the Mini-Hatch Act?

The consequences of violating the prohibitions against political activity are serious. Penalties range from suspension without pay to removal from your government position.

5. Who is included in the more restricted group?

Employees of:

- the Guam Election Commission;
- the Civil Service Commission;
- the Office of Public Accountability
- the Criminal Investigation Unit of the Tax Enforcement Division of the Department of Revenue and Taxation;
- the Prosecution Division of the Office of the Attorney General;
- AND any sworn police officer.

All other government of Guam employees are part of the less restricted group.

6. As a government of Guam employee, what can I do?

All government of Guam employees, whether more or less restricted, may do any and all of the following:

- Register to vote and vote as they choose
- Contribute money to political campaigns, political parties, or partisan political groups
- Attend political fundraising functions
- Attend political rallies and meetings
- Join political clubs or parties
- Sign nominating petitions
- Express opinions about candidates and issues

7. I'm a less restricted employee, is there anything else I can do?

In addition to the activities listed above, less restricted employees may also do any of the following:

- Assist in voter registration drives
- Hold office in political clubs or parties
- Campaign for or against candidates in partisan elections
- Make campaign speeches for candidates in partisan elections
- Distribute campaign literature in partisan elections

- Volunteer to work on a partisan political campaign.

8. As a government of Guam employee, what am I prohibited from doing?

All government of Guam employees, whether more or less restricted, is **prohibited from doing any of the following:**

- Organize a fundraising activity of a political party, partisan political organization or candidate
- Invite others to a partisan political fundraiser
- Collect contributions or sell tickets to partisan political fundraising functions
- Use their official titles or positions while engaged in political activity
- Engage in political activity while on duty, in any government of Guam room or building (whether owned or leased by the government of Guam), while wearing a government of Guam uniform or official insignia, or while using any vehicle owned or leased by the government of Guam.

9. I'm a more restricted employee, what sort of activities are prohibited?

More restricted employees are not permitted to take an active part in a partisan political campaign or in partisan political management. For example:

- May not campaign for a particular candidate or slate of candidates
- May not make campaign speeches for or against a particular candidate or slate of candidates
- May not distribute campaign material in partisan elections
- May not circulate nominating petitions
- May not hold office in political clubs or parties
- may not assist in partisan voter registration drives

10. What does "partisan" mean anyway?

An activity is partisan if it involves political parties.

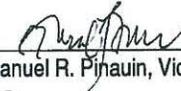
11. What is a political party?

The term "political party" means a national political party, a territorial political party and an affiliated organization.

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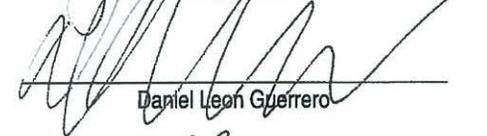
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CHAPTER 5
POLITICAL ACTIVITY

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§ 5101. Definitions.

In this Chapter:

(a) *Employee* means a person employed in the Executive Branch of the government of Guam, including autonomous and semi-autonomous agencies thereof, or in the Judicial Branch with the following exceptions:

- (1) A person holding elective office;
- (2) A special or Staff Assistant to the Governor;
- (3) A person appointed by the Governor with the consent of the Legislature;
- (4) A person retained from time to time to perform professional or special services for a specific fee; and
- (5) A person working on a casual basis on the days he performs no services.

Employees includes a person on administrative annual, or sick-leave unless such person has resigned and has received a lump-sum payment for such leave. Subject to (5) above, it includes persons not providing professional services for a specific fee who are hired on a temporary, part-time, emergency or casual basis;

(b) *Election* means any local, primary, general or special election;

(c) *Activity* means the independent action of an employee, the action of an employee in open or secret cooperation with others and the indirect action of an employee through an agent. Activity does not mean

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the independent action of the husband or wife of an employee, upon his or her own initiative and in his or her own behalf;

(d) *Political Party* means a national political party, a territorial political party and an affiliated organization;

(e) *Partisan* and *non-partisan* when used as adjectives refer to political parties; and

(f) *Candidate* means:

(1) an individual as defined in 3 GCA §8101, Subsection (b);

and

(2) a candidate for an office in a political party.

SOURCE: GC § 3300, as added by P.L. 12-223.

§ 5102. Permitted Activity.

(a) An employee may engage in political activity to the fullest extent consistent with the restrictions set forth in § 5103, so long as such activity does not materially compromise his efficiency or integrity as an employee, or the neutrality, efficiency or integrity of his department or agency. Each employee specifically retains the right to register and vote in an election and, while not on duty and while not in a uniform identifying him as an employee, to:

(1) Express his opinion as an individual citizen privately and publicly on political issues and candidates;

(2) Display a political picture, sticker or badge or button;

(3) Participate in the non-partisan political activities of a civic community, social labor, professional or similar organization;

(4) Be a member, officer, or delegate of a political party or other political organization and participate in its activities to the fullest extent consistent with § 5103;

(5) Attend a political convention, rally, fund-raising function, or other gathering;

(6) Sign a political petition as an individual citizen;

(7) Make, as an individual citizen, a contribution to or expenditure on behalf of a political party or organization or candidate;

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(8) Be free from any obligation to contribute to any political fund or to render any political service;

(9) Participate in political activity in connection with a question not specifically identified with a political party: for example, soliciting signatures for petition relative to changing working conditions or campaigning for an issue in a referendum; and

(10) Serve as member of a precinct board or other election official who performs duties under Title 3 GCA.

(b) Employees of the following government entities are prohibited from taking an active part in political management or political campaigns:

(1) the Guam Election Commission;

(2) the Civil Service Commission;

(3) the Office of Public Accountability;

(4) the Criminal Investigation Unit of the Tax Enforcement Division of the Department of Revenue and Taxation;

(5) the Sworn police officer; and

(6) the Prosecution Division of the Office of the Attorney General. For the purposes of this Section, the term “active part in political management or in a political campaign” means to campaign for or against candidates, or otherwise engage in political activity in concert with a political party, a candidate for partisan political office, or a partisan political group.

SOURCE: GC § 3301, as added by P.L. 12-223. Amended by P.L. 31-217:1 (June 15, 2012).

§ 5103. Prohibited Activity.

(a) An employee shall not use his official authority or influence for the purpose of interfering with or affecting the result of an election.

(b) Specific activities in which employees are prohibited from participating include, but are not limited to:

(1) soliciting, collecting, handling, disbursing or accounting for assessments, contributions or other funds for a political party, partisan political organization or candidate;

(2) organizing, selling tickets to, seeking support for or actively

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participating in a fund-raising activity of a political party, partisan political organization or candidate;

(3) taking an active part in managing the political campaign of a candidate;

(4) being a candidate;

(5) discharging, promoting, demoting or changing the compensation of any other employee or promising or threatening to do so, because said other employee advocates or fails to advocate through contribution, voting or otherwise, a candidate; and

(6) using government travel allowances, government transportation, government supplies or government facilities for the benefit of any political party, partisan political organization or candidate.

SOURCE: GC § 3302 GC, as added by P.L. 12-223. Amended by P.L. 31-217:2 (June 15, 2012).

§ 5104. Activities Not Affected.

Nothing in this Chapter shall preclude the use under a rental agreement of government of Guam facilities by a political party, partisan political organization or candidate.

SOURCE: GC § 3303, as added by P.L. 12-223.

§ 5105. Investigations by Civil Service Commission.

When any person has reason to believe that an employee has violated § 5103, he may report the matter to the Civil Service Commission. On receipt of a written report which seems to the Commission to warrant an investigation, the Commission may investigate the matter in accordance with the provisions of the rules and procedures, if any, established by the Civil Service Commission and the following:

(a) All hearings *shall* be conducted before the entire Commission; and

(b) The decision of the Commission *shall* include a determination of whether a violation of § 5103 has occurred and whether a violation warrants the removal of the employee from his employment. Should the Commission determine that removal is *not* warranted but that a violation of § 5103 did occur, a penalty of *not more than* thirty (30) days' suspension without pay *shall* be imposed at the direction of the Commission.

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SOURCE: GC § 3304, as added by P.L. 12-223. Repealed and reenacted by P.L. 30-112:8 (Mar. 12, 2010). Amended by P.L. 31-217:3 (June 15, 2012).

§ 5106. Other Restrictions: Penalty.

No person, whether or not an employee, shall solicit or receive a contribution or distribute literature for any political purpose in any room or building occupied in the discharge of official duties by any person employed by the Executive, Legislative or Judicial Branches of the government of Guam. For purposes of this Section, soliciting a contribution includes solicitation by letter or circular addressed to and delivered to an employee in said room or building. Any person who violated this Section is guilty of a misdemeanor.

SOURCE: GC § 3305, as added by P.L. 12-223.
