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DANIEL D. LEON GUERRERO
Executive Director

CSC No.: 2020-027

Via Email Transmission

MEMORANDUM

DATE: June 26, 2020

TO: All Departments, Agencies, Autonomous and Non-autonomous Departments and Agencies, Public Corporations, and Instrumentalities

FROM: Executive Director, Civil Service Commission

SUBJECT: Political Activity Law (4GCA, Chapter 5)

Hafa Adai:

In light of the impending elections and increased political activities for the next four months, attached is a copy of the Political Activity Law and a Political Activity Power Point Presentation. This will assist in understanding the employee's responsibility stemming from the Political Activity Law.

THE POLITICAL ACTIVITY LAW

- Defines the various categories of government positions, covered and exempted from the Political Activity Law.
- Defines allowable political activities.
- Identifies employees (Restricted Employees) of government entities prohibited from taking an active part in political management or political activities.
- Identifies permitted political activities.
- Identifies some specific prohibited activities.
- Identifies activities not affected.
- Explains the Civil Service Commission Investigative responsibilities.
- Outlines the mandatory penalties imposed for violation.

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- States that 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.

CIVIL SERVICE COMMISSION INVESTIGATION

When a person has reason to believe that an employee has violated the Political Activity Law they can file a complaint with the Civil Service Commission. The Commission will determine if the complaint warrants an investigation. If an investigation is conducted it shall be submitted to the Commission to determine if a violation occurred. If the Commission determines a violation occurred, then the Commission must first decide if the termination of the employee is warranted. If the Commission decides termination is not warranted, then they are required to suspend the employee for up to thirty (30) days.

Should you require assistance please call Eric Miller, Administrative Counsel, or Roland P. Fejarang, Personnel Management Administrator, at 647-1855.

Si Yu'us Ma'ase

Daniel D. Leon Guerrero



Dlg:slc

Attachments: Political Activity Law and
Political Activity Power Point Presentation

Cc: Jon Junior Calvo, Chief of Staff, Acting, Office of the Governor
Juan K. Calvo, Chairman, Civil Service Commission

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CII. 5 INVESTIGATIONS BY CIVIL SERVICE COMMISSION

CHAPTER 5
POLITICAL ACTIVITY

- § 5101. Definitions.
- § 5102. Permitted Activity.
- § 5103. Prohibited Activity.
- § 5104. Activities Not Affected.
- § 5105. Investigations by Civil Service Commission.
- § 5106. Other Restrictions: Penalty.

§ 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 the

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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) [repealed]

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

SOURCE: GC § 3300, as added by P.L. 12-223 (Feb. 1, 1975).

2020 NOTE: Past publications of the GCA included the following language in subsection (f)(1): "an individual as defined in 3 GCA § 8101, Subsection (b); and." However, 3 GCA § 8101 was repealed by P.L. 18-030:53 (Feb. 19, 1986). In light of the repeal of 3 GCA § 8101, this language was removed from subsection (f)(1) to avoid confusion.

Furthermore, due to the repeal and reenactment of the Guam Election Code by P.L. 31-255 (Dec. 11, 2012), other definitions of "Candidate" are now found in 3 GCA § 1115 and 3 GCA § 17101.

2012 NOTE: P.L. 18-30:53 (Feb. 19, 1986) repealed 3 GCA §§ 8101, 8102 and 8104-8116. Title 3 GCA § 8103 was subsequently repealed by P.L. 27-108:2 (Oct. 27, 2004). Two separate definitions for "*Candidate*" exist in 3 GCA §§ 1114 and 19101 (c).

§ 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

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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;

(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

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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 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.

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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.

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.
