

**5 GCA GOVERNMENT OPERATIONS
CH. 43 BOARDS & COMMISSIONS**

**CHAPTER 43
BOARDS & COMMISSIONS**

NOTE: This Chapter contains those provisions of law, formerly scattered throughout the Government Code, dealing with Boards and Commissions in general. Many Boards are created by local statute, some by local Executive Order and others by Executive Order pursuant to federal requirements. Each board created by statute is found in the appropriate substantive Title of this Code. Laws in this Chapter apply to all Boards and Commissions.

Article 1. General Provisions.

Article 2. Performance Review of Agency Heads.

**ARTICLE 1
GENERAL PROVISIONS**

- § 43101. Board Members Prohibited from Procurement.
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- § 43115. Annual Reports.
- § 43116. Boards and Commissions Educational Programs.
- § 43117. Boards and Commissions Training. [Repealed.]
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- § 43120. Secret Voting Prohibited. Vote Required.
- § 43121. Use of Video Conferencing at Meetings.
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§ 43101. Board Members Prohibited from Procurement.

Notwithstanding any other provision of law, any member of any elected or appointed board or commission shall be prohibited from acting or participating in discussion on any matter in which he is a principal, has a financial interest in, or acts as an agent for anyone other than the government of Guam. Interests held in blind trust shall not be exempt from this provision. The member shall be prohibited from influencing any determination made by the board or commission on which the member serves and in which the member either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of the member's official responsibility, where the government of Guam is a party or has a direct and substantial interest. Said prohibition shall be applicable during the tenure of the member, and one (1) year thereafter.

SOURCE: GC § 5200 added as part of Chapter III, Title VI of the Government Code, by P.L. 14-6:10. Repealed by P.L. 23-10:3. Reenacted by P.L. 31-175:1 (Feb. 3, 2012).

§ 43102. Former Members' Appointment to Board Limited.

Until the expiration of two years from the date of an election in which he was a candidate, no person who is a candidate for public office shall be eligible for appointment to any Board or Commission (whether heretofore or hereafter created) whose members are appointed by the Governor if such a person was a member of such Board or Commission during the twelve month period immediately preceding such election.

SOURCE: GC § 5201 added by P.L. 14-6:10.

§ 43103. Multiple Board Memberships Prohibited.

No person whose appointment requires legislative concurrence shall simultaneously serve on more than one Board or Commission.

SOURCE: GC § 5202 added by P.L. 14-6:10.

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§ 43104. Uniform Compensation for Boards and Commissions.

(a) A member of a board or commission shall be compensated in the amount of Fifty Dollars (\$50.00) for attending a board or commission meeting, such compensation not to exceed One-Hundred Dollars (\$100.00) per month. Civil Service Commissioners shall, without limitation, each receive Fifty Dollars (\$50.00) for every meeting attended to adjudicate appeals, complaints, grievances or other disputes, or to perform rule-making functions as provided in statute, rule or regulation.

(b) Effective October 1, 1995, all members of any boards or commissions of the government of Guam, except for the Territorial Board of Education, who serve on the board or commission in the capacity of a full-time, salaried elected official or as a full-time, salaried, appointed official of the government of Guam shall not be entitled to receive a stipend for attendance at board or commission meetings.

SOURCE: GC § 6911 added by P.L. 15-148:32. Amended by P.L. 23-45:IV:10. Repealed and reenacted by P.L. 24-59:V:13.

2018 NOTE: Subsection designations added pursuant to authority by 1 GCA § 1606.

COMMENT: 1. GC § 6911 was added as the last section in a string of 32 sections affecting compensation for members of boards and commissions. The preceding 31 sections amended each board or commission found in law at that time to fix the amount as stated in this section. It appears that the Legislature intended all boards and commissions to have the same compensation, that provided in this section, even if the board or commission was inadvertently omitted from P.L. 15-148, or established by Executive Order. Certain commissions established since that time (January 1981) have different compensation.

2. P.L. 16-44:21 stated: "No person who is a member of any board or commission within the government shall be compensated for service on such board or commission."

Public Law 16-111:II:6 repealed that section.

§ 43105. Travel for Board & Commission Members.

(For the law governing travel of board and commission members, see 5 GCA § 23104.)

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§ 43106. Removal from Office for Absences.

Unless the provisions of law governing the removal from a particular board or commission are to the contrary, the unexcused absences of a member of a board or commission from three consecutive regular meetings of the board or commission shall constitute a cause for removal of the member from the board or commission, and the Governor may thereupon remove such a member from the board or commission. The determination of whether a member's absence is excused or unexcused shall be made by the other members of the same board or commission.

SOURCE: GC § 6911.1 added by P.L. 16-67.

§ 43107. Quarterly Attendance Report Required.

The chairman of each board or commission shall submit a quarterly report on the attendance of the members of the board or commission to *I Maga'lahi* (the Governor) and *I Liheslatura* (the Legislature), and shall also post the attendance reports on the agency, board, or commission website.

SOURCE: GC § 6911.2 added by P.L. 16-67. Amended by P.L. 31-032:1 (Apr. 18, 2011).

§ 43108. Conduct of Meetings.

(For the law governing the conduct of meetings in general, see 5 GCA Chapter 8, the Open Government Law. For specific quorum requirements, see the law governing each specific board or commission.)

§ 43109. Representation of Sexes.

(For the law governing representation of both sexes on boards and commissions, see 4 GCA § 2105.)

§ 43110. Appointments.

(For the law governing appointments generally, see 4 GCA § 2101, § 2102 and § 2103.)

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§ 43112. Conflict of Interest of Members.

(For the law governing employment in or contracting with the agency or instrumentality of a former member of its governing board, see 4 GCA § 2104.)

§ 43113. Rulemaking.

(For the laws governing rulemaking by boards and commissions -- and others within the Executive Branch -- see 5 GCA Chapter 9, Administrative Adjudication Law.)

§ 43114. Employee Salary Ceiling.

(For law governing the maximum salary which a board or commission can give to an employee governed by it, see 4 GCA §6103, and specific law governing each agency, especially the Department of Education.)

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

§ 43115. Annual Reports.

(For law requiring annual reports from each board and commission, see 5 GCA § 1507.)

§ 43116. Boards and Commissions Educational Programs.

(a) Development of Training and Curriculum. Each board or commission shall have an educational program established to prepare its members for the duties of the board or commission to which they are appointed. Such educational program shall cover procurement laws, as applicable, applicable statutes, executive orders, and rules and regulations which govern the board or commission and their respective areas of purview. Each educational program shall be established, within ninety (90) days of the enactment of this Section, by the Director of the agency with which the board or commission is associated, or his designee; or, if there is no such agency, then *I Maga'lahi* (the Governor), or his designee. Each educational program shall be updated, as needed, no less than annually, to reflect any changes to procurement laws, applicable statutes, and rules and regulations. The Director of each agency shall report to *I*

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Maga'lahi (the Governor) within thirty (30) days when member(s) of an associated board or commission complete the applicable educational program. The Director, or his designee, shall conduct the training sessions at a time and location to be determined by the Director, in compliance with the Americans with Disabilities Act and other relevant statutes.

(b) Education of Current Board and Commission Members. Each current member of a board or commission shall complete the applicable educational program within thirty (30) days of the establishment of the program.

(c) Education of New Board and Commission Members. Each new member of a board or commission shall complete the applicable educational program within thirty (30) days of his election and qualification, or his confirmation by *I Liheslatura* to the board or commission.

(d) Continuing Education for Board and Commission Members. Each year, the members of each board and commission shall, as a form of continuing education, complete the applicable educational program for the board or commission on which they serve.

(e) Failure to Complete an Educational Program. Failure to complete an educational program within one hundred eighty (180) days of a board or commission member's appointment shall result in the member's removal and the appointment of a new member to fill the vacancy, pursuant to § 2101 of Chapter 2, Title 4, Guam Code Annotated. Actions of a board or commission shall not be invalidated by the failure of a member to complete the applicable educational program.

SOURCE: Added by P.L. 32-031:3 (May 10, 2013).

2013 NOTE: This section was added by P.L. 24-191:2 (May 6, 1998), entitled "Development of Boards and Commissions Training Program." Repealed by P.L. 28-076:7 (Nov. 25, 2005), effective January 1, 2007 pursuant to P.L. 28-076:9.

§ 43117. Boards and Commissions Training.

[Repealed.]

SOURCE: Added by P.L. 24-191:3. Repealed by P.L. 28-076:8 (Nov. 25, 2005), effective January 1, 2007 pursuant to P.L. 28-076:9.

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§ 43118. Boards and Commissions Appreciation Day.

I Maga'lahaen Guåhan [Governor of Guam] shall designate, preferably during the month or week in which volunteers are recognized, one (1) day per year for recognition and appreciation of individuals serving on all boards and commissions.

SOURCE: Added by P.L. 24-191:4.

§ 43119. Certain Boards & Commission Abolished if Not Meeting.

[Repealed.]

SOURCE: Added as an uncodified law by P.L. 26-76:56 (Mar. 12, 2002). Repealed by P.L. 30-113:1 (Mar. 11, 2010).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

§ 43120. Secret Voting Prohibited. Vote Required.

(a) No action, motion or resolution of any board or commission of the government of Guam may be taken in secret or by secret ballot. This provision shall not apply to the Guam Parole Board.

(b) All members present are required to vote on every action or resolution of the board, for which a vote is called, unless the member is excused for cause by a majority of the members present, or the member is barred by public law from voting.

SOURCE: Added by P.L. 31-218:1 (June 15, 2012).

§ 43121. Use of Video Conferencing at Meetings.

(a) Board and commission members may participate in regular and special meetings via video conferencing. The board or commission member shall submit a written request to participate in regular and special meetings via video conferencing to the Chairperson. Such request shall be attached to the minutes of said meeting.

(b) Participation via video conferencing shall meet the requirements for a quorum.

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(c) Boards and commissions shall develop rules and regulations and education on the use of video teleconferencing for their members, in consultation with the Office of Technology (OTECH) and the Office of the Attorney General, in accordance with their individual missions and functions, and in accordance with existing statute, specifically the Open Government Law, contained in Chapter 8 of this Title.

(d) Executive sessions and due process hearings shall not be conducted via video teleconferencing.

SOURCE: Added by P.L. 34-133:2 (Oct. 17, 2018).

§ 43122. Use of Video Live Streaming at Meetings.

(a) Boards and commissions may elect to broadcast regular and special meetings via video live streaming applications.

(b) Boards and commissions shall develop rules and regulations and education on the use of video live streaming for their members, in consultation with the Office of Technology (OTECH) and the Office of the Attorney General, in accordance with their individual missions and functions, and in accordance with existing statute, specifically the Open Government Law, contained in Chapter 8 of this Title.

(c) Boards and commissions shall provide instructions on how the public can access these video live streams on their meeting notices.

SOURCE: Added by P.L. 34-133:3 (Oct. 17, 2018).

**ARTICLE 2
PERFORMANCE EVALUATION OF AGENCY HEADS**

SOURCE: This Article was enacted as an uncodified law by P.L. 27-20. Codified by Compiler.

- § 43201. Definitions.
- § 43202. Performance Reviews of Agency Heads.
- § 43203. Publication of Performance Reviews.

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§ 43201. Definitions.

For purposes of this Article only:

(a) Agency, instrumentality, or entity shall mean the Department of Education, the Guam Power Authority, the Guam Waterworks Authority, the Guam Housing Corporation, the Guam Housing and Urban Renewal Authority, the Public Defender Service Corporation, the Jose D. Leon Guerrero Commercial Port, the A. B. Won Pat International Airport Authority, Guam, the Guam Economic Development and Commerce Authority, the Civil Service Commission, the Department of Chamorro Affairs, the Chamorro Land Trust Commission, the Ancestral Lands Commission, the Guam Memorial Hospital Authority, the Guam Educational Telecommunications Corporation, the Guam Council on the Arts and Humanities, the Guam Visitors Bureau, the Guam Environmental Protection Agency, the Guam Election Commission, and the Government of Guam Retirement Fund.

(b) Governing Board shall mean the Guam Education Policy Board, the Consolidated Commission on Utilities, the Board of Directors, the Council, the Commission, or the Board with the statutory authority to select the Chief Executive of the agency, instrumentality, or entity for which it determines policy. Chief Executive shall mean the Senior Manager who heads an agency, including, but not limited to, the Superintendent of Education, Director, Executive Director, General Manager, President, Hospital Administrator, or Administrator.

SOURCE: Added by P.L. 27-20. Amended by P.L. 28-143:3 (July 20, 2006). Amended by P.L. 29-061:1 (Apr. 4, 2008).

2013 NOTE: Subsection designations were added to adhere to the Compiler's alpha-numeric scheme in accordance to 1 GCA § 1606.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

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§ 43202. Performance Reviews of Agency Heads.

The governing Boards for all agencies, instrumentalities, or entities shall issue performance reviews of the Chief Executive selected for that agency six (6) months after appointment of the said Chief Executive and every twelve (12) months thereafter that the Chief Executive is retained by the Governing Board. Each performance review shall document the Chief Executive's performance, accomplishments, and the respective Governing Board's reasons for retaining the said Chief Executive.

SOURCE: Added by P.L. 27-20. Amended by P.L. 29-061:2 (Apr. 4, 2008).

§ 43203. Publication of Performance Reviews.

The performance reviews required under this Act shall be made public and the availability of these reviews shall be published by the respective Governing Boards issuing the aforementioned reviews by newspaper of general circulation or by radio or television which is reasonably calculated to provide notice of the facts it announces to the public at large and posted on the agency, instrumentality or entity's website.

SOURCE: Added by P.L. 27-20. Amended by P.L. 29-061:3 (Apr. 4, 2008).
