



**BEFORE THE 2012 JUDICIAL COUNCIL OF GUAM
RESOLUTION NO. JC 12-014**

RELATIVE TO ADOPTING AMENDED JUDICIARY PERSONNEL RULE 13

WHEREAS, at the regularly scheduled and noticed Judicial Council meetings of July 19, 2012, and of August 23, 2012, the Judicial Council discussed the Guam Legislature's amendment to Guam law governing conduct of government employees concerning elections, amended by the 31st Guam Legislature in P.L. 31-217. In that law, the Legislature broadened the First Amendment rights of some government employees, but did not address Judiciary employees. After discussion at the July and August 2012 meetings, court personnel worked with Judicial Council members to draft a Rule 13 that reflects the changes adopted by P.L. 31-217; and

WHEREAS, the revised proposed Amended Rule 13 was circulated and discussed at the September 20, 2012 Judicial Council meeting and

WHEREAS, the Judicial Council finds it to be in the best interest of justice to modify existing Rule 13 of the Judiciary of Guam Personnel Rules and Regulations.

NOW, THEREFORE, BE IT RESOLVED, that Amended Rule 13, attached hereto, is hereby adopted, and is to be incorporated into the Judiciary of Guam Personnel Rules and Regulations, effective September 20, 2012.

DULY ADOPTED this 20th day of September, 2012 at a duly noticed meeting of the Judicial Council of Guam.

A handwritten signature in blue ink, appearing to read "F. Carbullido", written over a horizontal line.

F. PHILIP CARBULLIDO, Chairman

Date: 10/22/12

ATTEST:

A handwritten signature in blue ink, appearing to read "Joanna S. McDonald", written over a horizontal line.

JOANNA S. McDONALD, Assistant Secretary

Date: 10-22-12

Rule 13

Political Activities

13.00- Employee's Rights

Every employee has the right to freely express his views as a citizen and to cast his vote. Political activities of employees shall be in accordance with prevailing provisions in the Guam Code Annotated and this Rule.

13.01- Definitions in This Rule

A. Employee: A person employed in the Judicial Branch with the following exceptions:

1. Judges and chamber staff, including chamber clerks, law clerks and bailiffs, including magistrates, full time hearing officers and full time *pro tem* judges;

2. Justices and staff of the Supreme Court;

3. The Administrator of the Courts, the Clerk of Court for the Superior Court, the Clerk of Court for the Supreme Court, the Director of Policy, Planning and Community Relations , the Marshal of the Courts, the Chief Probation Officer, the Compiler of Laws, the Staff Attorney for Superior Court, the Public Guardian, and the Division Heads of the following divisions: Procurement and Facilities Division, Human Resources, Client Services and Family Counseling, Court Programs, Financial Management and Management Information Systems.

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.

Employee includes a person on administrative, annual, or sick leave, unless such person has resigned and has received a lump sum payment for such leave.

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 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 state or territorial political party and an affiliated organization;

E. Partisan and Non-Partisan: When used as an adjective refers to political parties; and

F. Candidate: As used herein, candidate means:

(1) an individual as defined in subsection 3 GCA §1114; and

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

13.02- Permitted Activity

A. An employee may engage in political activity to the fullest extent consistent with restrictions set forth in Rule 13.03, so long as such activity does not materially compromise the efficiency or integrity of the employee or the neutrality, efficiency or integrity of the employee's division. 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 the person as an employee to:

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

2. Take an active part in an organized solicitation of votes in support of or in opposition to a candidate, including distributing and displaying campaign literature, advertisement, stickers, pictures or buttons, and endorsing or opposing a candidate in a political advertisement, a broadcast, campaign literature, a letter or article in the newspaper (signed or unsigned), or similar material;

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 Rule 13.03, and organize or reorganize a political party, partisan political organization, or committee thereof, or serve as delegate, alternate or proxy to a political party convention;

5. Attend and address a political convention, rally, fund-raising function or other gathering of a political party in support of or in opposition to a candidate or on a partisan political question;

6. Initiate, circulate or sign a nominating petition for a candidate;

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 a petition relative to changing working conditions or campaigning for an issue in a referendum;

10. Serve as a member of a precinct board or other election official who performs duties under this Title 3 GCA, including acting as a recorder, watcher, challenger or similar officer at the polls on behalf of a political party, partisan political organization or candidate;

11. Drive voters to the polls on behalf of a political party, partisan political organization or candidate;

B. The head of a division may prohibit or limit participation of an employee in an activity otherwise permitted under Section 13.02 if such participation would interfere with the efficient performance of official duties or create a conflict or apparent conflict of interest.

13.03- 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 participation in a fund-raising activity or 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 for 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.

C. Special Restrictions.

1. The following positions are prohibited from taking part in any activity delineated in Section 13.02 above, or from taking an active part in political management or political campaigns:
 - a. Judges and chamber staff, including chamber clerks, law clerks and bailiffs, including magistrates, full time hearing officers and full time *pro tem* judges;
 - b. Justices and staff of the Supreme Court;

c. The Administrator of the Courts, the Clerk of Court for the Superior Court, the Clerk of Court for the Supreme Court; the Director of Policy Planning and Community Relations , the Marshal of the Courts, the Chief Probation Officer, the Compiler of Laws, the Staff Attorney for Superior Court, the Public Guardian, and the Division Heads of the following divisions: Procurement and Facilities Division, Human Resources, Client Services and Family Counseling, Court Programs, Financial Management and Management Information Systems.

2. For the purposes of this Section, the term “active part in political management or in a political campaign” means a campaign for or against candidates, or political activity in concert with a political party, or a candidate for partisan political office, or a partisan political group, or campaigns involving initiatives, referenda, plebiscites, or removal. "Political organization" means a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

13.04- 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.

13.05- Investigation by Judicial Council

A. When any person has reason to believe that an employee has violated the provisions of this Rule, he may report the matter to the Administrator of the Courts. On receipt of a written report, or on receipt of such other information

which seems to the Administrator to warrant an investigation, the Administrator of the Court shall investigate the matter in accordance with the provisions of these Judiciary Personnel Rules to determine whether disciplinary action is appropriate.

B. If the Administrator of the Court has determined that disciplinary action is appropriate, the matter may be appealed to the Judicial Council,

C. All hearings shall be conducted before the Judicial Council pursuant to the Judicial Council Hearing Officer Procedures for the Hearing of Appeals of Adverse Actions and Grievances.

13.06- 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 a person employed by the Executive, Legislative, or Judicial Branch of the Government of Guam. For purposes of this section, soliciting a contribution includes a solicitation by letter or circular addressed to and delivered to an employee in said room or building.