

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Resolution No. 340-30 (COR)

As amended on the Floor.

Introduced by:

Judith P. Guthertz, DPA

T. C. Ada

V. Anthony Ada

F. B. Aguon, Jr.

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Adolpho B. Palacios, Sr.

v. c. pangelinan

R. J. Respicio

Telo Taitague

Ray Tenorio

Judith T. Won Pat, Ed.D.

Relative to *adding* a new Section 29.04.05 to "Rule XXIX. Code of Ethics and Standards for the Legislative Branch," of *I Mina'Trenta Na Liheslaturan Guåhan Otden Areklamento*.

1 BE IT RESOLVED BY I MINA'TRENTA NA LIHESLATURAN
2 GUÅHAN:

1 **WHEREAS**, pursuant to Section 29.04 of Rule XXIX of *Mina'Trenta Na*
2 *Liheslaturan Guâhan Otden Areklamento*, the Honorable Judith T. Won Pat,
3 Speaker of *I Mina'Trenta na Liheslaturan Guahan*, on August 24, 2009,
4 appointed members of *I Liheslaturan Guahan* to serve on the Committee on
5 Ethics and Standards; and

6 **WHEREAS**, members of the Committee on Ethics and Standards
7 adopted, via majority vote on November 3, 2009, the Committee's 'Interim
8 Rules of Procedure;' and

9 **WHEREAS**, members of the Committee on Ethics and Standards
10 adopted, via majority vote on January 25, 2010, the Committee's 'Rules of
11 Procedure' hereafter listed; and

12 **WHEREAS**, a new Section 29.04.05 is hereby added to Rule XXIX of
13 *Mina'Trenta Na Liheslaturan Guâhan Otden Areklamento*, Code of Ethics and
14 Standards for the Legislative Branch:

15 "Section 29.04.05: Rules of Procedure for the legislative Committee on
16 Ethics and Standards.

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5 **COMMITTEE ON ETHICS AND STANDARDS Thirtieth Guam**
6 **Legislature**

7 **RULES OF PROCEDURE**

8 **RULE 1: Purpose of Rules**

9 These rules for the Committee on Ethics and Standards are established
10 to provide for its operation in a manner which will enable it to execute
11 properly the powers and duties vested in it, including the conduct of hearings
12 in a fair and impartial manner, consistent with protection of the constitutional
13 rights of person involved in the proceedings and the preservation of the
14 public good. *Source 2 GCA §4101*

15 **RULE 2: Definitions**

16 AS USED IN THESE RULES:

17 "*Committee*" means the Thirtieth (30th) Guam Legislature's Committee on
18 Ethics and Standards.

19 "*Hearing*" means any meeting in the course of an investigatory
20 proceeding (other than a preliminary conference or interview at which no
21 testimony is taken under oath) conducted by the Committee for the purpose

1 of taking or adducing testimony or receiving other evidence. A hearing may
2 be open to the public or closed to the public.

3 "Meeting" means the convening of the Committee for which a quorum is
4 required in order to make a decision or to deliberate toward a decision on any
5 matter.

6 "Respondent" means a Senator or employee of the Legislature against
7 whom a complaint of misconduct has been brought before the Committee.

8 "Witness" means a person who testified to what he or she has seen,
9 heard or otherwise observed.

10 "Counsel" means an attorney admitted or licensed to practice before the
11 Courts of Guam or specially admitted *pro hac vice*.

12 **RULE 3: Nature and Confidentiality of Proceeding**

13 The Committee, in conducting business, shall be guided by the provisions of
14 the Standard of Conduct for Elected Officers, Appointed Officers, and Public
15 Employees of the Government of Guam as codified in 4 G.C.A. §15100 *et. seq.* ,
16 and the Code of Ethics and Standards for the Legislative Branch as set forth in
17 Rule XXIX, Standing Rules of the Guam Legislature.

18 **RULE 4: Committee Functions**

19 Pursuant to Rule XXIX of the 30th Guam Legislature Standing Rules, the
20 Committee:

1 (a) May investigate and / or hear all complaints of any alleged violation
2 of the Code of Ethics and Standards by a Senator or employee of the
3 Legislature brought by any source, or on its own motion.

4 (b) After any investigation, shall report and make recommendations to
5 the Legislature regarding what action, if any, should be taken.

6 (c) Shall recommend to the Legislature any changes in existing law or
7 rules or additions to said law or rules which the Committee shall determine to
8 be necessary or desirable to ensure observance of the Code of Ethics and
9 Standards. *Source: Rule 28, Twenty-Third Guam Legislature Standing Rules*

10 **RULE 5: Finance and Staff**

11 The Committee may employ for the duration of its business professional,
12 technical, clerical or other personnel as necessary for the proper performance
13 of its duties, to the extent of funds made available to it by the Committee on
14 Rules for such purpose and subject to such restrictions and procedures
15 relating thereto as may be provided by law or any applicable rules of the
16 Legislature. *Source: 2 GCA §4105*

17 **RULE 6: Membership, Quorum, and Voting**

18 (a) The committee shall be composed of six (6) members of the
19 Legislature. Four (4) members of the Committee shall be members of the
20 Majority Party, appointed by the Speaker. Two (2) members of the Committee
21 shall be members of the Minority appointed by the Minority Leader. The

1 Committee shall select a Chairperson and Vice Chairperson from among its
2 members.

3 (b) Vacancies in the membership of the Committee shall not affect the
4 authority of the remaining members to execute the functions of the
5 Committee, and shall be filled in the same manner in which the original
6 appointments were made.

7 (c) Four (4) members of the Committee shall constitute a quorum for
8 the transaction of business.

9 (d) No action shall be taken by the Committee at any meeting unless a
10 quorum is present. Except as prohibited by Rule XVIII, Section 18.05, of the
11 Standing Rules of the 30th Guam Legislature, action may be taken by
12 affirmative vote of no less than four (4) members present and voting at a
13 meeting at which there is a quorum.

14 (e) Pursuant to Section 18.05 of Rules XVIII of the Standing Rules of
15 the 30th Guam Legislature, the affirmative vote of a majority of all members
16 of the Committee shall be required to introduce a resolution out of committee.
17 For purposes of this Ssection, a vote by a member "to report out" or "to report
18 out only" or abstain or any other qualified vote *shall* not be considered an
19 affirmation vote to report such bill or resolution out of Committee.

20 (f) Subject to concurrent dismissal by the Speaker, any member may be
21 removed by the Speaker for two (2) unexcused absences from meeting or

1 hearing noticed pursuant to these rules. The Speaker shall then appoint a new
2 member. *Source: Twenty-Fifth Guam Legislature Standing Rules, §29,04-29.04.02*

3 **RULE 7: Hearings and Meetings**

4 (a) The Committee may hold hearing or meetings as it deems
5 appropriate for the performance of its duties at such time and places as it
6 determines.

7 (b) Members of the Committee shall be given at least three (3) days'
8 notice of any hearing or meeting to be held concerning any procedural matter.
9 Members of the Committee shall be given at least (7) days' notice of any
10 hearing or meeting to be held concerning any substantive matter. The
11 Chairperson shall deliver to the Executive Director of the Guam Legislature
12 the notice setting forth the Committee's name, time and place, and a statement
13 of the subject matter of the hearing or meeting. A hearing or meeting, and any
14 action there taken, shall not be deemed invalid solely because notice was not
15 given in accordance with this requirement. A hearing can be recessed by the
16 Chairperson or majority vote of the members present to continue the
17 following working day or to a date certain in the future.

18 (c) A hearing or meeting shall not be conducted by the Committee
19 unless a quorum is present. The Committee may, by majority vote, establish a
20 subcommittee, consisting of not less than three (3) members who shall be
21 members of the Committee. The Chairperson of the Committee shall be an ex

1 officio member of all subcommittees. A Subcommittee may hold working
2 sessions without a quorum as long as evidence is not received.

3 (d) A meeting shall be open to the public unless the Committee, by a
4 vote of two-thirds (2/3) of all the members present, closes the meeting;
5 provided that all meetings regarding a complaint against a member of the
6 Legislature shall be public.

7 (e) A special meeting may be called at any time by the Chairperson or
8 by a majority of the members of the Committee, by delivering personally or
9 by mail written notice to each Committee member. Notice shall also be given
10 to each newspaper of general circulation and broadcasting station within
11 Guam. Such notice must be delivered personally or by mail at least twenty-
12 four (24) hours before the time of such meeting as specified in the notice. The
13 call and notice shall specify the time and place of the special meeting and the
14 business to be transacted. No other business shall be considered at such
15 meeting by the Committee. *Source: 2 GCA §4107/4110*

16 **RULE 8: Form of Complaints**

17 Complaints must be in writing and signed by the Complainant. Complaints
18 and information about Senators and employees of the Legislature must be
19 verified as true for that the complainant believes them to be true under
20 penalty and perjury under the Laws of Guam *Source: Twenty-Third Guam*
21 *Legislature Standing Rules, § 28.04.03*

22 **RULE 9: Screening of Complaints**

1 (a) Immediately upon receiving a complaint or information about a
2 Senator or employee of the Legislature, the Chairperson shall refer the matter
3 to the Committee's legal counsel to screen it to determine whether the alleged
4 facts, if true, would constitute a violation of the legislature's Code of Ethics
5 and Standards. Legal Counsel shall within thirty (30) days report back to the
6 Chairperson whether the allegations constitute prohibited conduct under the
7 legislature's code of Ethics and Standards.

8 (b) After committee legal counsel has screened the complaint or
9 information and before the investigation of such complaint or information has
10 commenced, the Committee legal counsel shall report to the Committee with
11 his or her preliminary findings. The Committee shall thereupon, by majority
12 vote of its members, determine whether or not the complaint or information
13 screened by the Committee legal counsel warrants further investigation or
14 action by the Committee or committee legal counsel. If not enough votes are
15 obtained, then the item remains on agenda until the committee votes to either
16 go forward, refer to inactive file, or dismiss.

17 (c) The Chairperson may release information regarding a pending
18 complaint to the news media or the general public and the legal Counsel shall
19 have no authority to do so. *Source: Twenty-Third Guam Legislature Standing*
20 *Rules §28.04.03*

21 **RULE 10: Investigation by Committee legal Counsel**

1 Upon the authorization and instruction of the Committee, as provided in Rule
2 9, committee legal counsel shall investigate any complaint or information that
3 concerns a Senator or employee of the Legislature and alleges facts which, if
4 true, would constitute misconduct. Committee legal counsel, or his or her
5 designee, including a qualified investigator under committee legal counsel's
6 supervision, may interview witness and gather evidence in the course of the
7 investigation. At any time during the course of the investigation upon
8 learning of facts or circumstances clearly exonerating the respondent, the
9 Committee's legal counsel shall inform the Committee of such information
10 and immediately recommend a dismissal of the proceeding. *Source: Twenty-*
11 *Third Guam Legislature Standing Rules, §28.04.03*

12 **RULE 11: Notice of Respondent**

13 (a) Committee Legal Counsel shall not recommend a disposition of a
14 matter other than by dismissal without first notifying the respondent in
15 writing of the substance of the complaint, affording respondent the
16 opportunity to appear before the legal counsel to present respondent's
17 position, and Committee Legal Counsel must include, in any of such counsel's
18 reports to the Committee, the substance of the Respondent's position on the
19 complaint.

20 (b) Immediately upon receiving a complaint the Chairperson shall
21 notify the Respondent by giving Respondent a copy of the complaint. The
22 Chairperson shall then release the complaint to the news media and general

1 public no sooner than ten (10) days, excluding weekends and holidays, after
2 the Respondent receives the copy of the Complaint provided by the
3 Chairperson. The day before the media release, the Chairperson shall make an
4 announcement to the media that the Chairperson will be releasing
5 information about an ethics complaint the next day, but shall not name the
6 Respondent, or the complaint, or describe the subject matter of the complaint.

7 *Source: Twenty-Third Guam Legislature Standing Rules, §28.04.04*

8 **RULE 12: Preliminary Recommendation by Committee Legal Counsel**

9 The Preliminary recommendation for disposition of a complaint
10 following investigation by the legal counsel shall be either, that the complaint
11 warrants a full investigation and hearing by the Committee, or that the facts
12 and circumstance clearly exonerate the Respondent and the complaint should
13 be dismissed. Committee Legal Counsel's preliminary recommendation shall
14 be made not later than thirty (30) days after the referral is made by the
15 Committee, unless extended by the Chairperson or the Committee. *Source:*

16 *Twenty-Third Guam Legislature Standing Rules §28.04.03*

17 **RULE 13: Resolution Prior to Hearing**

18 If Committee Legal Counsel recommends a full investigation and hearing, and
19 the Committee approves the preliminary recommendation, a proposed
20 resolution shall be drafted, approved by the Committee and forwarded to the
21 Committee Legal Counsel for the commencement of a full investigation and
22 hearing.

1 **RULE 14: Hearing**

2 If the Committee passes a resolution authorizing a full investigation and
3 hearing of the matter, the Committee shall conduct a full investigation and
4 hearing. The hearing shall commence no later than thirty (30) days after
5 receipt of the resolution by the Committee Legal Counsel.

6 **RULE 15: Issuance of Subpoenas**

7 (a) By majority vote of its members, the Committee may issue
8 subpoenas, including subpoenas duces tecum, requiring the appearance of
9 persons, productions of relevant records, and the giving of relevant testimony.

10 (b) A person subpoenaed to attend a hearing of an investigating
11 committee shall receive the same fees and allowance as a person subpoenaed
12 to give testimony in an action pending in the Superior Court of Guam

13 (c) Subpoenas may be issued under the signature of the Chairperson or
14 any members designated by the Chairperson, and may be served by any
15 person designated by the Chairperson or member. Source: 2 GCA §4108

16 **RULE 16: Notice to Witnesses**

17 (a) Service of a subpoena shall be made in the manner provided by
18 law for the service of subpoenas in civil actions at least seven (7) days prior to
19 the time fixed in the subpoenas for appearance or production of records
20 unless a shorter period of time is authorized by majority vote of the members
21 of the Committee in a particular instance when, in their opinion, the giving of
22 seven (7) days' notice is not practicable; but if a shorter period of time is

1 authorized, the person to whom the subpoenas is directed shall be given
2 reasonable notice consistent with particular circumstances involved.

3 (b) Any person who is served with a subpoena also shall be served
4 with a copy of the resolution authorizing the investigation and a copy of these
5 rules, a general statement informing him or her of the subject matter of the
6 Committee's investigation or inquiry and, if personal appearance is required,
7 a notice that he or she may be accompanied by counsel of his or her own
8 choosing. *Source: 2 GCA §4109*

9 **RULE 17: Conduct of Hearings**

10 (a) All hearings of the Committee shall be public unless the
11 Committee, by majority vote of all of its members, determines that a hearing
12 should not be open to the public in a particular instance.

13 (b) The Chairperson of the Committee, if present and able to act, shall
14 preside at all hearings of the Committee and shall conduct the examination of
15 witnesses or supervise examination by other members of the Committee, and
16 members of the Committee's staff who have been authorized to examine
17 witnesses. In the Chairperson's absence or disability, the Vice-Chairperson
18 shall serve as presiding officer.

19 (c) No hearing, or part thereof, shall be televised, filmed or broadcast
20 except upon approval of the Committee by majority vote of the members.

21 (d) The Chairperson of the Committee or the Chairperson's designee
22 may administer oaths to a witness. *Source: 2 GCA §4110*

1 **RULE 18: Rights to Counsel and Submission of Questions**

2 (a) Every witness at a Committee hearing may be accompanied by
3 counsel of his or her own choosing, who may advise the witness as to his or
4 her rights; provided, that limitations may be prescribed by the Committee to
5 prevent obstruction of or interference with the orderly conduct of the hearing.

6 (b) Any witness at a hearing, or his or her counsel, may submit to the
7 Committee proposed questions to be asked of the witness or any other
8 witness, or a written or verbal statement, relevant to the matters upon which
9 there have been questions or submission of evidence, and the Committee shall
10 ask such of the questions or any other questions as it may deem appropriate
11 to the subject matter of the hearing. *Source: 2 GCA §4111*

12 **RULE 19: Testimony**

13 (a) The Committee shall cause a record to be made of all proceedings
14 in which testimony or other evidence is received or adduced, which record
15 shall include rulings of the Chairperson, questions of the Committee and its
16 staff, the testimony or responses of witnesses, sworn written statements which
17 the Committee authorizes a witness to submit, findings of facts, and such
18 other matters as the Committee or Chairperson may direct.

19 (b) All testimony given at a hearing shall be under oath or affirmation
20 unless the requirement is dispensed with in a particular instance by majority
21 vote of the Committee members present at the hearing.

1 (c) Any member of the Committee may administer an oath or an
2 affirmation to a witness.

3 (d) The Chairperson at a hearing of the Committee, may direct a
4 witness to answer any relevant question or furnish any relevant book, paper,
5 or other document. Unless the direction is overruled by majority vote of the
6 Committee members present, disobedience shall constitute grounds for
7 citation for contempt, except that production of any book, paper or other
8 document may be required only by subpoena.

9 (e) A witness at a hearing, or his or her counsel, with the consent of a
10 majority of the Committee members present at the hearing, may file with the
11 Committee for incorporation into the record of the hearing sworn written
12 statements relevant to the purpose, subject matter and scope of the
13 Committee's investigation or inquiry.

14 (f) A witness at a hearing, upon his or her advance request and at his
15 or her own expense, shall be furnished a certified transcript of his or her
16 testimony.

17 (g) Testimony and other evidence given or adduced at a hearing
18 closed to the public shall not be made public, unless authorized by majority
19 vote of the committee, which authorization shall also specify the form and
20 manner in which the testimony or other evidence may be released. Nothing
21 herein shall be construed to prevent a witness or other supplier of evidence
22 from disclosing such of his or her own testimony or other evidence

1 concerning matters which only he or she could claim a privilege against
2 disclosure. *Source: 2 GCA §4112*

3 **RULE 20: Final Argument**

4 (a) Respondent or Respondent's counsel shall be permitted to present
5 to the Committee oral comments on all evidence received by the Committee.
6 Respondent's arguments to the Committee shall be limited to commenting on
7 the evidence received and shall not include argument on recommended
8 punishment. Final argument by Respondent shall take place after all evidence
9 is received by the Committee, and as soon thereafter as Respondent may be
10 heard.

11 (b) The Chairperson of the Committee, if present and able to act, shall
12 preside at Respondent's presentation and shall control the manner and length
13 of Respondent's final argument.

14 **RULE 21: Final Disposition**

15 The Committee may direct that Committee Legal Counsel shall recommend a
16 final disposition of the matter not later than thirty (30) days after the
17 completion of the full investigation and hearing and the later submission of
18 any evidence agreed to be received by the Committee. The final disposition
19 shall include, but not be limited to, the following:

20 (a) Name of Respondent;

21 (b) Act or acts Respondent committed, if any, which violated the
22 Code of Ethics and Standards;

1 (c) Conclusions of law upon which Committee Legal Counsel bases
2 the violation;

3 (d) If Committee Legal Counsel determines that a violation has
4 occurred, the recommended punishment for the violation or violations.

5 **RULE 22: Approval of Disposition**

6 The Committee shall review the recommendation for final disposition
7 submitted by Committee Legal Counsel and may approve, disapprove, or
8 modify the final disposition.

9 **RULE 23: Resolution**

10 The Committee shall prepare a resolution containing the following
11 information and upon approval by the Committee, submit it to the body of the
12 Legislature for its passage:

13 (a) Name of respondent

14 (b) The act or acts respondent committed, and whether any such acts
15 violated the Code of Ethics and Standards;

16 (c) If the Committee determines that a violation has occurred, the
17 punishment recommended by the Committee for the violation or violations.

18 **RULE 24: Notification of Complainant and Respondent**

19 The Complainant and the Respondent shall be notified in writing, within a
20 reasonable time, of the final disposition of the matter following investigation
21 by the Committee.

22 *Source: Twenty-Third Guam Legislature Standing Rules, §28.04.03*

1 **RULE 25: Record-Keeping**

2 (a) In matters where the Committee makes a finding of a violation of the
3 Code of Ethics and Standards by a Senator or employee of the Legislature, the
4 documentation thereof shall not be destroyed and all records thereof shall be
5 placed in both the legislative archives and the official legislative depository.

6 (b) In matters where the Committee makes a finding of non-occurrence
7 of prohibited conduct by a Senator or employee of the Legislature, the
8 documentation thereof may be placed in the legislative archives and be
9 destroyed after five (5) years.

10 (c) All Legal opinions and Rules and Regulations adopted or prepared
11 for the Committee shall be kept for future reference. These documents shall be
12 placed in legislative archives at the end of term of the Committee.

13 (d) All records concerning ongoing cases shall be transmitted to the next
14 legislature with recommendations.

15 **RULE 26: Interested Persons**

16 (a) Any person whose name is mentioned or who is otherwise identified
17 during a hearing of the Committee and who, in the opinion of the Committee,
18 may be adversely affected thereby, may, upon such person's request or upon
19 the request of any member of the Committee, appear personally before the
20 Committee and testify in his or her own behalf, or, with the Committee's
21 consent, file a sworn written statement of facts or other documentary evidence
22 for incorporation into the record of the hearing.

1 (b) Upon the consent of a majority of its members, the Committee may
2 permit any other person to appear and testify at a hearing or submit a sworn
3 written statement of facts or other documentary evidence for incorporation
4 into the record thereof. No request to appear, appearance or submission of
5 evidence shall. limit in any way the Committee's power of subpoena. *Source: 2*
6 *GCA §4113*

7 **RULE 27: Contempt**

8 (a) A person shall be in contempt if he or she:

9 (1) fails or refuses to appear in compliance with a subpoena, or,
10 having appeared, fails or refuses to testify under oath or affirmation;

11 (2) fails or refuses to answer any relevant question or fails or
12 refuses to furnish any relevant book, paper or other document
13 subpoenaed by or on behalf of the Committee; or

14 (3) commits any other act or offense against the Committee which,
15 if committed against the legislature, would constitute contempt.

16 (b) The Committee may, by majority vote of the members, apply to the
17 Legislature for a contempt citation. The application shall be considered as
18 though the alleged contempt had been committed in or against the Legislature
19 itself. The Legislature shall vote to determine whether action in court shall be
20 taken to enforce a subpoena.

21 *Source 2 GCA §4114*

22 **RULE 28: Limitation of These Rules**

1 Nothing contained in these rules shall be construed to limit or prohibit the
2 acquisition of evidence or information by the Committee by any lawful means
3 not provided for herein. *Source: 2 GCA §4116*

4 **RULE 29: No Authority to Grant Immunity**

5 The Committee shall have no authority to grant immunity to witnesses or any
6 other person.

7 **RULE 30: Recusal of Committee Members**

8 If a member of the Committee is accused of an ethics violation, he or she shall
9 recuse himself or herself from any participation in the matter. The Speaker
10 shall then appoint a part-time member of the Committee to act only in matters
11 regarding that complaint or, if the Speaker is the accused Senator, the Vice
12 Speaker shall appoint the part-time member.

13 **RULE 31: Rights to Counsel**

14 The Respondent shall have the right to counsel at all stages of these
15 proceeding. Counsel shall enter an appearance by serving the Chairperson
16 with a written Entry of Appearance.”; now, therefore, be it

17 **RESOLVED**, that *I Mina'Trenta Na Liheslaturan Guåhan* does hereby, on
18 behalf of *I Liheslaturan Guåhan* and the people of Guam, add a new Section
19 29.04.05 to Rule XXIX of *Mina'Trenta Na Liheslaturan Guåhan Otden*
20 *Areklamento*, Code of Ethics and Standards for the Legislative Branch; and, be
21 it further

1 **RESOLVED**, that the Speaker and the Chairperson of the Committee on
2 Rules of *I Mina'Trenta na Liheslaturan Guåhan* certify, and the Legislative
3 Secretary attest to the adoption hereof, and that copies of the same be
4 transmitted to the Honorable Felix P. Camacho, *I Maga'lahaen Guåhan*.

DULY AND REGULARLY ADOPTED BY I MINA'TRENTA NA LIHESLATURAN GUÅHAN ON THIS 3RD DAY OF MAY 2010.



JUDITH T. WON PAT, Ed. D.
Speaker



TINA ROSE MUÑA BARNES
Legislative Secretary