



Office of the Attorney General of Guam



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OPINION MEMORANDUM

Ref: DPHSS 18-0322

TO: Acting Director, Department of Public Health and Social Services

FROM: Attorney General

SUBJECT: Request for Legal Opinion Regarding Political Activities at Government of Guam Sponsored Events.

This Office is in receipt of your request for a legal opinion regarding political activities at government of Guam sponsored events. Your request is reproduced in its entirety:

SUBJECT: Request for AG Opinion on Political Activities at Government Events

Buenas! At a recent conference, an unidentified person walked to each table at the conference and passed out a political flyer to the attendees seated at each table. As a result of this unexpected act by a campaign supporter, the question was raised if such an act is permissible. Therefore, I am seeking your legal guidance to the following questions:

1. Can a person seeking political office or their supporter show up at a government sponsored and funded event, i.e. conference, at a hotel or similar setting, and pass out political flyers?
2. Does the sponsoring government entity have the authority to request or instruct the person(s) not to pass the political flyers out?
3. If yes to Question 2, what is the department's next recourse if the person(s) refuses to stop passing out the political flyers?
4. What if the event is sponsored through a combination of government and non-government funds, would this have an impact on the ability of a person(s) to pass out political flyers at the conference?

For purposes of this request for legal guidance, the person in the questions above is not a government employee. Your response is appreciated and will be shared with staff of the department for their guidance.

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Discussion

Guam law is quite explicit on this subject:

“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 violates this Section is guilty of a misdemeanor.”

4 GCA § 5106. *See also*, Department of Administration, Personnel Rules, Appendix E (same); 4 GCA § 5103(b)(6) (“Specific activities in which employees are prohibited from participating include, but are not limited to ... using government travel allowances, government transportation, government supplies or government facilities for the benefit of any political party, partisan political organization or candidate.”); and DOA Personnel Rule, Appendix D(2)(o) (same).

The activities you describe are clearly prohibited by Guam law. No person seeking political office or their supporter is authorized to appear at a government sponsored and funded event, i.e. conference, at a hotel or similar setting, and pass out political flyers. Accordingly, it is the opinion of this Office that a government entity sponsoring an event is not only authorized but has a duty to instruct any person attempting to pass out campaign literature at the event to refrain from doing so. If the person refuses to stop, then because the activity you describe is a misdemeanor the government entity is authorized to instruct that person to leave and if necessary seek the assistance of the Guam Police Department. Last, you ask whether it makes a difference if the event is sponsored through a combination of government and non-government funds. The answer is no.

We trust we have sufficiently addressed your inquiry. For further information concerning this matter, please use the reference number shown above.

Respectfully,


ELIZABETH BARRETT-ANDERSON
Attorney General

cc: Chair, Guam Election Commission
Chair, Civil Service Commission