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CH. 85 COUNCIL ON THE ARTS AND HUMANITIES

CHAPTER 85
COUNCIL ON THE ARTS AND HUMANITIES

NOTE: Entire chapter, which created the Council of Arts and Humanities, was added as Title XLVIX of the Government Code by P.L. 16-122:3 (Dec. 23, 1982), effective January 1, 1983. P.L. 16-122:4 contained a sunset provision that stated that the law would “expire by its own terms on January 1, 1985, provided that legislation may be enacted earlier than 1985 causing this Section to be of no effect.”

P.L. 17-081:5 (Dec. 1, 1984) amended the sunset provision in Section 4 of P.L. 16-122, stating: “This Act shall expire by its own terms on June 30, 1985.” The sunset provision was repealed by P.L. 18-008:1 (July 8, 1985); accordingly, CAHA became a permanent agency of the Executive Branch.

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§ 85101. Legislative Findings.

Citizens of Guam lack the opportunity to view, enjoy or participate in living theatrical performances, musical concerts, operas, dance and ballet materials, art exhibits, examples of fine

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architecture and the performing and fine arts. The Territory desires to foster the opportunity for participation in arts and humanities programs designed to benefit citizens of all ages and from every community. It is the policy of the Government of Guam to stimulate the economic growth of the Territory through cultural activities. Therefore, it is in the best interest of the Territory to provide more opportunities for professional training and practice of the arts and humanities. Further, it is the policy of the Territory to join with the arts and humanities to insure that their role in the life of the community will grow and play a more significant part in the welfare and educational experience of the citizens. Coordinating and encouraging schools, organizations and individuals in their several artistic and cultural activities is in the best interest of the territory of Guam. Finally, the Territory desires to make prompt application for federal funds in support of the arts and humanities and hereby establishes an agency for application and expenditure of those funds.

SOURCE: GC § 65000 added by P.L. 16-122:3 (12/23/82).

§ 85102. Purposes of the Council.

The purposes and the charge of the Guam Council on the Arts and Humanities are:

- (a) To stimulate and encourage the study and presentation of the performing and fine arts and public interest and participation therein.
- (b) To help develop and sustain existing independent institutions of the arts by providing technical assistance in strengthening administrative and fund-raising techniques.
- (c) To provide for the exhibition of art works in public buildings; to administer the art bank purchases and to make policies therefor.
- (d) To bring highest quality in arts to the Territory, to promote the opportunity for people to experience, enjoy and profit from the arts and humanities.
- (e) To join or contract with private patrons, individual artists and ensembles and with institutions, local sponsoring organizations and professional organizations.

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(f) To enter into contracts to provide grants, loans or advances to individuals, organizations or institutions -- public or private -- engaged in artistic, humanistic and cultural programs.

(g) To accept gifts, contributions and bequest of funds or artifacts and property.

(h) To serve as sole government agency for administering any state plan of the National Endowment for the Arts and/or Humanities.

(i) To make applications for federal funds from the National Endowment for the Arts and Humanities or to any office or agency of the United States for participation in or receipt of aid from federal programs.

(j) To receive requests for grants and to make grants to institutions, individuals and agencies of government in furtherance of the arts and humanities.

(k) To administer and disburse funds.

(l) To expend appropriations made by the Legislature for arts and humanities programs.

(m) To serve and act as the official lead agency for planning and administering Guam's participation and representation at the Festival of Pacific Arts and Culture.

SOURCE: GC § 65001. Subsection (m) added by P.L. 35-060:2 (Jan. 2, 2020).

§ 85103. Governing Board.

(a) Board. The Council shall be governed by a governing board as hereafter constituted and provided.

(b) Composition. The governing board shall consist of thirteen (13) members, twelve (12) of whom shall be appointed by *I Maga'lahi* (the Governor) with the advice and consent of *I Liheslatura* (the Legislature). The thirteenth (13th) member shall be appointed by *I Maga'lahi* from among the members of the Mayors Council of Guam, and shall *not* be subject to the advice and consent of *I Liheslatura*. *I Maga'lahi*, when making initial appointments, shall designate six (6) members to serve for two (2) year terms, and six (6) members to serve for four (4) year terms.

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Subsequent appointments shall be for terms of four (4) years, except that when a vacancy occurs, it shall be filled by appointment of *I Maga'lahi* with the advice and consent of *I Liheslatura* for the remainder of the vacating member's term.

(c) Qualifications. With the exception of the one (1) member who shall be appointed from among the members of the Mayors Council of Guam, members of the governing board shall be appointed from among male and female residents of Guam, selected at-large, who have recognized the professional interest and experience in or who are widely known for their interest in the arts and humanities. The governing board shall have at least two (2) members to represent the following areas: performing arts, visual arts, literature and folk arts.

(d) Disqualifications. While serving in office, no member of the governing board or any of its committees, panels or advisory groups shall be eligible to receive in his or her own name a grant, loan or other form of assistance from the Council.

(e) Meetings. The governing board shall meet at least monthly, at such times and in such places in Guam as the governing board establishes (or by the chairperson when the Board does not act), to transact such business as the governing board determines. A quorum of the governing board shall consist of a majority of members duly appointed and qualified. The chairperson shall be counted for a quorum but shall vote only in case of a tie. Members of the governing board shall serve without compensation, but each member shall be reimbursed for expenses incurred in the performance of official duties.

(f) Officers. The governing board shall elect from among its members a chairperson and a vice-chairperson, both to serve in those capacities no longer than the term of office as a governing board member. The chairperson shall preside at all meetings of the governing board, shall act as the spokesperson of the governing board and perform such other duties as the governing board shall direct. The vice-chairperson shall succeed to the duties of the chairperson in the absence or inability of the chairperson. From among its members, the governing board shall annually select a secretary of the governing board and any other officers which the governing board may deem necessary.

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(g) Compensation. While serving in office and attending meetings, members shall receive a stipend of Fifty Dollars (\$50) per meeting, but not more than One Hundred Dollars (\$100) in any one calendar month.

SOURCE: GC § 65002. Subsection (g) added by P.L. 20-214:4. Subsections (b) and (c) amended by P.L. 32-224:1:2 (Dec. 29, 2014).

§ 85104. Powers.

The governing board shall have those powers necessary to carry out the duties imposed on it by this Chapter, including, but not limited to, the power:

(a) To prepare and submit an annual budget to the Governor and the Legislature which reflects the needs of the Territory, to apply for and to accept for the arts and humanities on behalf of the Territory, any federal funds granted by Act of Congress or by executive order for all or any of the purposes of this Chapter, the Council being the sole and official agency of the Territory to apply for, receive and disburse funds from the National Endowment for the Arts and Humanities; to apply for and to accept (with or without qualifications or limitations), and expend any gifts, donations or bequests for all or any of the purposes of this Chapter; to accept and expend such funds as may be appropriated to it.

(b) To hire personnel and consultants for the staff of the Council; to formulate policies, to adopt such reasonable by-laws, rules, regulations, operating guidelines and procedures consistent with the purposes and process of this Chapter and with law, and to effectuate the provisions of the Chapter; to hold hearings, enter into contracts, make and sign agreements and perform any acts which may be necessary, desirable or proper to carry out the purposes of this Chapter.

(c) To appoint committees, panels and commissions in furtherance of its duties; to request from any department, division, board, bureau, commission, council or other agency of the Territory such reasonable assistance and data as will enable it to properly carry out its powers and duties under this Chapter; to advise, to coordinate, to consult with and enter

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into agreements and arrangements with foundations, charitable and community institutions, business, private individuals, local, state and federal departments and agencies on means by which to coordinate, assist and effectuate the powers and duties under this Chapter; to establish grant application criteria and procedure and to award prizes and direct grants to individuals and organizations in accordance with the criteria and procedure established.

(d) To act as advisor to the Governor concerning the arts and humanities.

SOURCE: GC § 65003. Added by P.L. 16-122:3.

§ 85105. Director.

The Director shall be the chief administrative officer of the Council. The Director shall carry out the policies established by the governing board and shall employ, supervise and discharge such professional, administrative, technical, consultative and other personnel as may be necessary to implement the policies established by the Council. The Director shall be knowledgeable in the arts and humanities by reason of education and expertise and shall have demonstrated proficiency in administration of programs relating to the arts and humanities.

SOURCE: GC § 65004. Added by P.L. 16-122:3.

§ 85106. Censorship.

In carrying out their duties and powers under this Chapter, neither the Council nor its staff shall by action directly or indirectly interfere with or infringe on the freedom of artistic expression, nor shall they take any action or make any recommendations that might be interpreted to be a form of censorship.

SOURCE: GC § 65005. Added by P.L. 16-122:3.

§ 85107. Annual Report.

Within ninety (90) days following the close of the fiscal year of the Territory, the Council shall transmit its annual report of activities to the Governor and the Legislature which report shall

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widely be distributed by the Council to the arts community and to the public.

SOURCE: GC § 65006. Added by P.L. 16-122:3.

§ 85108. Staff.

In order to effect a transition, the staff employed by the Insular Arts Council on the effective date of this Chapter may remain in their positions as unclassified personnel for ninety (90) days. During the ninety (90) day period, if they qualify, they may become classified employees in accordance with law and the rules of the Director of Administration.

SOURCE: GC § 65007. Added by P.L. 16-122:3. Amended by P.L. 28-68:IV:42 and 47 (Sept. 30, 2005).

NOTE: Reference to Civil Service Commission changed to Director of Administration effective January 1, 2006.

§ 85109. Funding.

The Governor shall establish a revolving fund for the Council on the Arts and Humanities. The Council may then deposit in the revolving fund income generated from gallery commissions, season tickets and other fund-raising activities to be used to further art projects. Individual accounts may be opened under the revolving fund for specific projects.

SOURCE: GC § 65008. Added by P.L. 16-122:3.

§ 85110. Off-Island Educational Training and Cultural Enhancement Fund – Program Goals.

(a) Fund Purpose. Educational and performing arts enhancement opportunities for island residents progressively increase each year as more organizations, schools and individuals with interests in the performing arts venture beyond Guam's shores to stage performances for invitational events or engage in competitions not offered locally. *I Liheslatura* (the Legislature) finds that such participation is beneficial in the development of performing arts skills; for broadening the education of resident participants; and for encouraging youth involvement and leadership activities that promote healthy, drug-free lifestyles. Such off-island events, however attractive or beneficial they may be, are often not within the financial reach of eligible participants,

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given the costs of airfare and accommodations. *I Liheslatura* recognizes the benefits of such events, including arts and humanities competitions, international cultural festivals and exchanges, the Junior Statesman Foundation, the National Science Fair, the Mock Trial, the Forensic League, and Close Up, among others, and is compelled to protect the opportunities they present by extending financial support. Any off-island event in which performances of organizations or individuals from Guam are featured generates favorable attention to the island, and promotes efforts to boost the island's visitor rates. Youth shall be given preference in the awarding of grants.

(b) Integration of Alcohol, Tobacco and Drug Prevention and Early Intervention Programs. The Director of the Guam Council on the Arts and Humanities Agency and the Director of the Department of Parks and Recreation shall work in collaboration with the members of the Governor's Prevention and Early Intervention Advisory Community Empowerment (P.E.A.C.E) Advisory Council, such as the Guam Behavioral Health and Wellness Center and the Department of Public Health and Social Services, to identify effective prevention and early intervention programs and strategies that will directly benefit youth and adult recipients of the Off-Island Educational Training and Cultural Enhancement Fund, and the Sports Fund. Such programs shall include a requirement that fund recipients participate in tobacco cessation programs (where warranted), youth leadership in alcohol, tobacco and drug prevention-related activities, and to include Applied Suicide Intervention Skills Training (ASIST) and safe TALK focused on suicide prevention, and shall focus on the following:

- (1) to prevent/reduce alcohol, tobacco and drug use, including underage drinking;
- (2) to promote alcohol-free, tobacco-free and drug-free lifestyles; and
- (3) to reduce the harmful outcomes associated with alcohol, tobacco and drug use.
- (4) At the very minimum, the program shall include a mentoring and leadership program.

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SOURCE: Added as uncodified law by P.L. 22-60:1 (Dec. 6, 1993), and codified by the Compiler. Amended by P.L. 31-132:3 (Nov. 17, 2011).

2013 NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center.

§ 85111. Off-Island Educational Training and Cultural Enhancement Fund.

[Repealed.]

SOURCE: Added as uncodified law by P.L. 22-60:2 (Dec. 6, 1993), and codified by the Compiler. Amended by P.L. 31-132:4 (Nov. 17, 2011). Repealed by P.L. 36-071:21 (Dec. 27, 2021).

2022 NOTE: Prior to its repeal, this provision stated:

Beginning on October 1, 2012, and for each year thereafter, Two Hundred Thousand Dollars (\$200,000) is hereby appropriated from the Healthy Futures Fund to the Guam Council on the Arts and Humanities Agency (CAHA) to be set aside in the Treasury of Guam in a fund hereby established as the Off-Island Educational Training and Cultural Enhancement Fund (the Fund). Youth and adult chaperones who demonstrate a commitment to lifestyles without the use of alcohol, tobacco and drugs shall be eligible and given preference in the awarding of grants. The Fund shall be administered pursuant to Public Law 22-124, the Off Island Educational Training and Cultural Enhancement Fund Rules and Regulations. Such appropriation shall be set up in a separate account and shall not be considered part of CAHA's annual budget. *I Maga'lahaen Guåhan* may transfer funds as may be appropriate to supplement the Off-Island Educational Training and Cultural Enhancement Fund. No portion of the Fund, including principal and interest, shall be transferred to any other fund, or used, or appropriated, except as provided for under this Article.

§ 85111.1. Gifts and Donations Authorized.

The CAHA Board is authorized to accept on behalf of, and in the name of the government of Guam, from any government or agency thereof, or any person, natural or legal, advisory services, donations and gifts for the Off-Island Educational Training and Cultural Enhancement Fund; provided, however, that any grant-in-aid or other form of assistance involving an obligation on the part of CAHA or the government of Guam shall require the prior approval of *I Maga'lahi* (the Governor) and a determination by CAHA's certifying officer of the availability of funds, and shall be consistent with the PEACE Council's position on not receiving

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funds, promotional items or donations from alcohol and tobacco industries, and no beneficiaries will be sponsored by such industries.

SOURCE: Added by P.L. 31-132:5 (Nov. 17, 2011).

§ 85112. Fund's Custodian and Certifying Officer.

CAHA shall serve as the Fund's custodian and shall be responsible for setting up the eligibility requirements governing usage of the Fund. CAHA's director shall manage the Fund and CAHA's certifying officer shall be the Fund's certifying officer.

SOURCE: Added as uncodified by P.L. 22-60:3 (Dec. 6, 1993), and codified by the Compiler.

§ 85112.1. Grant Award Notices.

The Director shall give adequate public notice as to the availability of funds for travel awards including application submission periods.

SOURCE: Added by P.L. 31-132:6 (Nov. 17, 2011).

§ 85113. Expenditures.

Expenditures from the Fund shall be limited to fifty percent (50%) of the total cost for off-island travel for the eligible applicant, group or organization, with the exception of CAHA's annual cultural tour, which shall be funded by special appropriation. CAHA shall set Thirty Thousand Dollars (\$30,000) as the ceiling for all requests.

(a) The representative of the recipient organization shall provide the CAHA director with an accurate accounting of the expenditure of all funds for air transportation within (30) days, or if there is misuse of funds in the opinion of CAHA, the individual, group or organization shall not receive further grants from the Fund and shall reimburse the Fund in an amount determined by CAHA.

(b) The CAHA director shall make a report to the Governor and the Legislature on June 30th of each year which shall include the following: The number of applications, the number and amounts of grants approved, and other data concerning management of the Fund.

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(c) Any person or representative of a group or organization who willfully misuses a grant received under this Act, shall be guilty of a petty misdemeanor and be subject to a fine not to exceed Five Hundred Dollars (\$500).

SOURCE: Added as uncodified law by P.L. 22-60:4 (Dec. 6, 1993), and codified by the Compiler.

CROSS-REFERENCES: See P.L. 22-124 for the Rules & Regulations implementing this Off-Island Fund.

§ 85113.1. Creation of the Guam Council on the Arts and Humanities Foundation Non-Profit Corporation.

CAHA is hereby authorized to establish a public not for profit corporation that shall be separate and apart from the government of Guam and CAHA for the purpose of being able to accept private gifts, donations, endowments, grants, and other monies which may be offered to the CAHA. Such gifts, donations, endowments, or grants, supra, shall be in accordance with the laws of Guam and subject to reasonable conditions. Such funds received shall be deposited into a fund controlled by the corporation, supra, and shall be known as the Guam Council on the Arts and Humanities Foundation.

SOURCE: Added by P.L. 35-099:XII:33 (Sep. 15, 2020).

§ 85114. Severability.

In the event any section, subsection, sentence, clause or phrase of this Chapter shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses or phrases of this Chapter, which shall remain of phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

SOURCE: GC § 65009.
