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SUPERIOR COURT
OF GUAM

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CLERK OF COURT

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IN THE SUPERIOR COURT OF GUAM

JORDAN PAULUHN,

Petitioner,

vs.

**GUAM ELECTION COMMISSION,
GERARD "JERRY" C. CRISOSTOMO,**
in his capacity as Chairman of the Guam
Election Commission, **JOSEPH P.
MAFNAS,** in his capacity as Vice-
Chairman of the Guam Election
Commission, **G. PATRICK CIVILLE,
ANTONIA "TONI" R. GUMATAOTAO,
BENNY A. PINAULA, RIKKI R.Q.
ORSINI,** and **CARISSA E.
PANGELINAN,** in their capacities as
Commissioners of the Guam Election
Commission,

Respondents.

Special Proceeding No. SP0151-26

**DECISION AND ORDER RE: VERIFIED
PETITION AND REQUEST FOR OSC**

This matter came before the Honorable Dana A. Gutierrez for a hearing on October 2, 2026, upon Petitioner Jordan Pauluhn's ("Petitioner") "Verified Complaint for an Emergency Temporary Restraining Order, Declaratory and Injunctive Relief, and Petition for Writ of Mandamus" (Sept. 15, 2026) ("Verified Petition"), and Petitioner's "Ex Parte and Emergent Request for Order to Show Cause" (Sept. 15, 2026) ("Request for OSC"). At the hearing, Petitioner appeared *pro se*, and Attorney Vincent C. Camacho appeared on behalf of the Guam Election Commission ("GEC") and the seven individual respondents (collectively, "Respondents"). Upon

consideration of the pleadings, supplemental pleadings, oral arguments, and the applicable law, the Court hereby **DENIES** the Verified Petition and the Request for OSC in their entirety.

BACKGROUND

The Court notes at the outset that within less than three weeks, the parties have presented the Court with a dizzying number of issues, arguments, defenses, and requests for relief. The parties have also each requested that the Court address this matter on a highly expedited basis in light of the effect this decision might have on the upcoming election. Given the timeline of this case, the constantly evolving record, the supplemental responses to the Court's order for clarification, and the other supplemental pleadings filed by the parties before and after oral argument, the scope of the issues has continually expanded. This Decision and Order cannot address every argument raised; instead, it focuses only on the issues the Court believes are dispositive.¹

Petitioner is one of five candidates in the upcoming election for the Attorney General of Guam. The Verified Petition raises two factually related but legally distinct claims. First, Petitioner challenges GEC's decision to ratify the candidacy of Douglas B. Moylan ("Moylan")—another candidate in the upcoming election—to appear on the ballot. V. Compl. at 3–4, 6. Petitioner challenges both GEC's decision-making procedure and also its substantive decision not to disqualify Moylan. Second, Petitioner claims that GEC violated the Open Government Law, 5 GCA § 8101 *et seq.* ("OGL"), when it removed him from a GEC meeting held on August 15, 2026. *Id.* at 6–7. The Court begins by recounting the facts as it understands them.

¹ For example, the Court does not reach questions such as: (1) on what date does a person become a "candidate" within the meaning of 5 GCA § 30101(b); *see* Pet'r's Resp. to Second Supp. Decl. (Oct. 5, 2026) (2) does an expansive interpretation of 5 GCA § 30101(b) create concerns under the First Amendment, *see* Resp't's Opp. Req. TRO at 9 (Sept. 17, 2026); (3) does the Open Government Law contain an implicit "nexus" requirement between the violation claimed and the action sought for voiding, *see id.* at 11; and (4) does 3 GCA § 2106 require the GEC to fully *decide* a controversy within ten days, or only to *take action* within ten days, *see* Resp't's Supp. Mem. (Sept. 30, 2026).

A. Petitioner Files a Complaint with GEC

On June 19, 2026, Petitioner filed a complaint with GEC regarding Moylan's candidacy. *See V. Petition* at 3–4, 6; *Id.*, Ex. A (Compl. for Disq. Of Candidate, June 19, 2026). Petitioner pointed out that under 5 GCA § 30101(b), “[a] candidate for the position of Attorney General of Guam shall declare no political party affiliation.” Petitioner alleged that Moylan was registered as a member of the Republican Party and was listed on the website of the Republican Attorneys General Association (“RAGA”) as a “Republican Attorney General” and a “Republican candidate” for office. *Id.* at 4; *see id.*, Ex. A at 1–2 (Compl.).

That same day, Moylan updated his GEC voter registration records to indicate that his political party affiliation was now “Other: Non-Partisan.” Supp. Decl. Maria I.D. Pangelinan (Oct. 2, 2026) at 2; *id.*, Ex. A (Updated Voter Registration Record, June 19, 2026). Moylan also sent emails to two addresses associated with RAGA. Decl. Maria I.D. Pangelinan (Sept. 17, 2026), Ex. E at 3–6.² In these emails, Moylan stated that the Attorney General of Guam is a non-partisan position, expressed that he does not recall having “sign[ed] up” to be a member of RAGA, and asked RAGA to remove his photograph and any references to him from the RAGA website. *Id.* Moylan forwarded copies of these emails to the GEC. *Id.*

On June 26, 2026, GEC drafted a response to Petitioner. *See V. Compl.*, Ex. B (Email, Jul. 1, 2026); Decl. Maria I.D. Pangelinan (Sept. 17, 2026), Ex. G (Letter, June 26, 2026). GEC acknowledged Petitioner's complaint and stated it would review the allegations. *Id.* But GEC also determined that “[a]t this time, the Commission does not view the filing of a Complaint, by itself, as requiring immediate disqualification.” *Id.* Regarding Moylan's Republican registration, the GEC stated that “the Commission may allow the candidate an opportunity to amend or correct the

² This Declaration is appended to Respondents' Opposition to Petitioner's Request for OSC (Sept. 17, 2026).

record before the Commission determines whether further action is required.” *Id.* GEC also indicated it would “apply this process consistently to all candidates.” *Id.*³

B. Petitioner Files a Second Sworn Declaration with GEC

On August 14, 2026, Petitioner submitted a Second Sworn Declaration to GEC. V. Petition at 4; *see id.* Ex. C (Second Sworn Declaration, Aug. 14, 2026). There, Petitioner declared that Moylan was still listed on the RAGA website, and that the website had been recently updated to provide Moylan’s biography. *Id.* at 2. Petitioner argued that “[t]his continuous and active listing and promotion on a national partisan organization’s webpage contradicts the statutory mandate and qualification that candidates for Attorney General of Guam declare no political party affiliation.” *Id.* Petitioner repeated his request for GEC to disqualify Moylan. *See id.* at 2–3.

On August 17, 2026, GEC sent Moylan a written request for additional information, posing six questions related to his connection to RAGA. Decl. Maria I.D. Pangelinan at 3, *id.*, Ex. D at 1–2 (Letter to Moylan, Aug. 17, 2026). In response, Moylan denied that he had authorized or requested RAGA to list him as a Republican candidate or to update his listing; denied he provided RAGA with his biographical information; and affirmed that he declares no political affiliation for the upcoming election. *See id.*, Ex. E at 1–2 (Response, Aug. 25, 2026)).

C. GEC Holds a Regular Meeting on August 15, 2026

On August 15, 2026, GEC convened a Regular Meeting. The agenda for that meeting listed, *inter alia*, an “Old Business” entry for “Jordan Pauluhn Complaint.” Decl. Maria I.D. Pangelinan, Ex. A (Aug. 15, 2026 Meeting Agenda and Public Notices). At the beginning of the meeting:

Commissioner Pinaula moved to approve the agenda for the August 15, 2026, Regular Meeting, seconded by Commissioner Pangelinan. Motion unanimously

³ As of June 2026, two of the other Attorney General candidates were affiliated with a political party at the time they filed their candidacy, but both have since updated their voter registration. *See* Second Supp. Decl. Maria I.D. Pangelinan.

carried. Commissioner Pinaula moved to address the Approval of 2026 General Election Early Vote Center Operations and New Business items concerning the 2026 Primary Election and *table all other agenda items for a reconvened meeting*; seconded by Commissioner Pangelinan. Motion unanimously carried.

Id., Ex. B at 1 (Minutes, Aug. 15, 2026) (emphasis added). After addressing Early Vote Center Operations and New Business items, “Commissioner Pinaula *moved to recess to process and tabulate absentee and provisional ballots*, seconded by Commissioner Gumataotao. Motion unanimously carried.” *Id.* at 2 (emphasis added). After its tabulation recess, GEC returned and voted to certify the 2026 Primary Election. *Id.* at 2. GEC then recessed again until August 18, 2026. *Id.* at 2.

Petitioner attended the August 15, 2026 meeting, sitting in the public viewing area. *See* Decl. Jordan Pauluhn at 1 (Sept. 23, 2026).⁴ Petitioner states that he “observed the proceeding without disturbance for approximately 30 minutes,” during which time GEC was conducting “the review and replication of ballots.” *Id.* at 1–2. Thereafter, GEC’s Executive Director approached Petitioner and asked him to leave because he did not possess a “badge issued by one of the political parties or a news media outlet.” *Id.* at 1–2. Petitioner states that he raised concerns under the OGL about his exclusion. *Id.* However, the Executive Director took the position that Petitioner could be asked to leave because at that time, GEC was “in recess.” *Id.* at 2. Petitioner disputes the “recess” characterization; he claims GEC was in fact still conducting “active deliberations.” *Id.*

GEC does not deny that Petitioner was asked to leave the meeting. Instead, GEC asserts the public was removed because the GEC was entering a “tabulation period” for the ballots from the primary election. Hr’g at 11:04 A.M. (Oct. 2, 2026). GEC asserted that “Guam law requires [GEC] to have a secure area for conducting tabulation,” and stated GEC has a longstanding practice

⁴ This Declaration is appended to Petitioner’s Supplemental Memorandum (Sept. 23, 2026).

of removing persons without a badge during tabulation. *Id.* GEC stated this practice is conducted pursuant to a provision of the Guam Election Manual. *Id.*⁵

The GEC's August 15, 2026 meeting was livestreamed through YouTube. Decl. Maria I.D. Pangelinan at 5 (Sept. 17, 2026). In his supplemental pleadings, Petitioner asserts the livestream "showed an 'intermission' screen while official business was actively conducted," and argued that "[i]f GEC in fact conducted or continued deliberations on Petitioner's complaint" during the intermission, this would violate the OGL. *See* Pet'r's Supp. Br. at 13 (Sept. 23, 2026).

D. GEC Holds a Reconvened Meeting on August 18, 2026

On August 18, 2026, GEC reconvened the August 15, 2026 meeting and voted to take up the previously tabled matters. *See* Decl. Maria I.D. Pangelinan at 3 (Sept. 17, 2026). GEC then addressed matters including "Ratification of the 2026 General Election Candidates." *Id.*, Ex. B at 4 (Minutes, Aug. 18, 2026). The GEC ratified all five Attorney General candidates, including Petitioner and Moylan, finding that each had "met the requirements" to be placed on the ballot. *Id.*; *see* Decl. Maria I.D. Pangelinan at 4 (Sept. 17, 2026). Although it was listed on the meeting agenda, it does not appear that GEC took any action on Petitioner's complaint on August 18, 2026.

E. GEC Holds a Regular Meeting on September 10, 2026

On September 10, 2026, GEC convened another Regular Meeting. The agenda for that meeting listed, *inter alia*, an "Old Business" entry for "Jordan Pauluhn Complaint." Decl. Maria I.D. Pangelinan, Ex. F (Sept. 10, 2026 Meeting Agenda and Public Notices). The Court does not have minutes from that meeting to review. However, it appears undisputed that GEC took up the

⁵ GEC did not provide a copy of this manual or explain where it can be accessed, nor did GEC offer a pin-cite to the specific provision it references. For purposes of this Decision and Order, the Court will assume the manual in question is the one now enacted as 6 GAR Ch. 5. *See* Guam Pub. L. 38-89 (Dec. 20, 2025).

matter of Petitioner's complaint at this meeting, and then informally (i.e., without formal vote) agreed that GEC would take no further action on Petitioner's complaint.

F. Petitioner Commences This Action

On September 15, 2026, Petitioner filed his Verified Petition and his Request for OSC. In his Verified Petition, Petitioner (1) challenges Moylan's qualification to appear on the ballot and (2) claims GEC violated the OGL on August 15, 2026. *See* V. Compl. at 6–7. In his Verified Petition, Petitioner seeks five forms of relief. Regarding Moylan's disqualification, Petitioner seeks (1) a temporary restraining order ("TRO"), (2) a declaratory judgment, and (3) an injunction; and regarding the OGL, Petitioner seeks (4) a declaratory judgment that "all actions taken at the August 15, 2026 meeting are void and without effect," and (5) an injunction prohibiting future OGL violations. *Id.* at 7. The Verified Petition does not directly seek any writ remedy. On the other hand, in his Request for OSC, Petitioner states that "[u]ltimately, this action seeks relief under Guam's writ statutes," and thus asks the Court to issue an Order to Show Cause to GEC under the procedure contemplated by 7 GCA § 31103 (writ of review), 7 GCA § 31204 (writ of mandamus), and/or 7 GCA § 31303 (writ of prohibition). *See* Request for OSC at 2–3.

The case was initially assigned to another Judge of the Superior Court, but that Judge disqualified herself from the case. *See* Form One Disqualification (Sept. 17, 2026); Petitioner's Statement Regarding FORM 1 (Sept. 17, 2026). The case was then assigned to this Court on September 17, 2026. Meanwhile, Respondents filed an Opposition to Petitioner's Request for OSC, including the first of three Declarations of Maria I.D. Pangelinan submitted to the Court. Opp. Req. OSC (Sept. 17, 2026); *see id.*, Ex. A. (Decl. Maria I.D. Pangelinan, Sept. 17, 2026).

G. The First Absentee Ballots Go Out

Petitioner filed this action on September 15, 2026. On September 19, 2026, pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 50 U.S.C. § 20301 *et seq.*, GEC began transmitting ballots to “covered military and overseas voters.” Supp. Decl. Maria I.D. Pangelinan at 1 (Sept. 25, 2026).⁶ As a result, GEC claims that any “order restraining ballot printing, finalization, or distribution at this stage could affect an election process already underway, including ballots already transmitted by mail or email to military, overseas, and other off-island absentee voters.” *Id.* at 2.

H. Supplemental Briefing, Hearing, and Subsequent Developments

The Court determined that while an expedited procedure was appropriate in this case, it could not immediately proceed to hear the case because several aspects of Petitioner’s pleadings were difficult to understand. *See* Order (Sept. 21, 2026). On September 21, 2026, the Court issued an Order for Clarification of Petitioner’s Pleadings. This Order directed Petitioner to clarify the legal and factual basis for the relief he seeks, set an expedited supplemental briefing schedule, and set a hearing date shortly after the completion of supplemental briefing. *Id.* The parties then timely filed supplemental briefings as directed. *See* Pet’r’s Supp. Mem. (Sept. 23, 2026); Resp’t’s Supp. Resp. (Sept. 25, 2026); Pet’r’s Supp. Reply (Sept. 28, 2026).⁷

Petitioner’s Supplemental Memorandum clarified that he sought, alternatively, at least eleven distinct forms of relief:

- A. a TRO restraining GEC from printing ballots, Pet’r’s Supp. Mem. at 3;
- B. a declaratory judgment that GEC violated the OGL, *id.* at 5;

⁶ This Declaration is appended to Respondents’ Supplemental Response (Sept. 25, 2026).

⁷ Respondents also sought, and received, leave of Court to file a sur-reply to respond to a new argument raised by Petitioner’s Supplemental Reply. *See* Order (Sept. 30, 2026); Resp’t’s Lim. Supp. Mem. (Oct. 1, 2026).

- C. a declaratory judgment that all actions GEC took at the meeting on August 15 are void and without effect, *id.*;
- D. a declaratory judgment that GEC has a duty to resolve Petitioner's complaint in accordance with the Administrative Adjudication Law ("AAL"), *id.*;
- E. a declaratory judgment that Moylan is disqualified under 5 GCA § 30101(b), *id.*;
- F. a mandatory injunction ordering GEC to resolve Petitioner's complaint in accordance with the AAL, *id.* at 6;
- G. a prohibitory injunction preventing GEC from placing Moylan on the ballot, *id.*;
- H. a prohibitory injunction enjoining GEC not to violate the OGL again, *id.*;
- I. a writ of mandamus compelling GEC to resolve Petitioner's complaint in accordance with the AAL, *id.* at 7;
- J. a writ of prohibition restraining GEC from "placing an unqualified candidate on the ballot without the AAL adjudication its own duty requires," *id.*;
- K. a writ of review (certiorari) to "review and annul GEC's informal, unwritten determination that candidate review was 'complete,'" *id.*

In this Decision and Order, the Court will continue using these letter designations when referring to each of Petitioner's specific requests.

Petitioner's supplemental briefing developed his arguments further. Petitioner now contends, *inter alia*, that GEC violated the AAL by failing to hold a formal hearing, take a formal vote, or issue written findings on his complaint. *See* Pet'r's Supp. Reply at 4–5. Petitioner also contends that GEC's resolution of his complaint violated 3 GCA § 2106 because the resolution was not completed within ten days. *Id.* at 5.

The Court held oral arguments on October 2, 2026. There, Respondents requested (and received) an opportunity to file an additional declaration. *See* Second Supp. Decl. Maria I.D. Pangelinan (Oct. 2, 2026). The Court also gave Petitioner permission to file a response, and he did so. *See* Pet'r's Resp. Supp. Decl. (Oct. 5, 2026). On October 5, GEC also asked to file another supplemental brief with the Court, which the Court denied. *See* Order (Oct. 6, 2026).

The Court took the matter under advisement on October 2, 2026. Early voting for the upcoming election commenced on October 8, 2026.⁸

DISCUSSION

A. The Court Denies All Requests for Relief Based on Moylan's Alleged Disqualification

Petitioner makes two alternative arguments, with corresponding requests for relief, regarding Moylan's disqualification. First, Petitioner argues that GEC erred by failing to apply AAL procedures when resolving his complaint.⁹ As a remedy, Petitioner asks the Court to take one or several actions to (1) compel GEC to re-adjudicate his complaint under AAL procedures, and/or (2) restrain GEC from distributing any ballots that list Moylan as a candidate. On this primary theory, Petitioner does not ask the Court to directly determine whether Moylan is disqualified, but only to order GEC to determine the issue in an AAL-complaint proceeding. In the alternative, Petitioner asks the Court to indeed examine whether Moylan is disqualified under 5 GCA § 30301(b), and if so, to declare his disqualification in the first instance.

1. GEC Was Not Required to Comply with the AAL to Resolve the Complaint

The AAL applies to "agencies," a classification which includes, *inter alia*, "[c]ommissions . . . authorized by law to make rules." 5 GCA § 9102. GEC is an "agency" under the AAL.¹⁰ The AAL therefore requires that "[t]he procedure of [GEC] shall be conducted *pursuant to the*

⁸ See Decl. Maria I.D. Pangelinan, Ex. B at 1 (Minutes, August 15, 2026); *see also* Guam Daily Post, "Early voting for general election underway at Westin" (Oct. 10, 2026), https://www.postguam.com/news/local/early-voting-for-general-election-underway-at-westin/article_c2f975b7-99d9-42db-a746-14ff3d2474bf.html (last visited Oct. 10, 2026).

⁹ Petitioner also argues that GEC could have decided his complaint without holding a hearing because, in his view, the facts giving rise to Moylan's disqualification—his Republican voter registration, and his listing on the RAGA website—are "undisputed." See Pet'r's Supp. Reply at 5 & n.3. But at minimum, there was a factual dispute as to *why* Moylan was listed on the RAGA website, and whether Moylan authorized RAGA to do so. See Decl. Maria I.D. Pangelinan (Sept. 17, 2026), Ex. E (Moylan's Response to GEC).

¹⁰ That is, GEC is a "commission," *see* 3 GCA § 2101(a) ("There is . . . an independent commission of the government of Guam, the Election Commission."), and is "authorized by law to make rules," *see* 3 GCA § 2107(d) ("The Commission shall promulgate rules, pursuant to Title 5 GCA Chapter 9, . . .").

provisions of this Chapter in any proceeding before [GEC] in which legal rights, duties or privileges of specific parties are *required by law to be determined after an agency hearing.*" 5 GCA § 9200 (emphasis added).

Under the AAL, when GEC (or any other agency) holds a formal hearing, it must conduct that hearing pursuant to AAL procedures. 5 GCA § 9200. But the AAL itself does not *create* any requirement for GEC (or any other agency) to hold a formal hearing. *See Rapadas v. Benito*, 2011 Guam 28 ¶ 24 ("Although our AAL sets out the procedures for a hearing if licenses are revoked, it does not necessarily follow that there is a right to a hearing."). Instead, a formal hearing is only "required by law" if such a requirement arises outside of the AAL itself.

Petitioner cites 3 GCA § 2106(a), which empowers GEC to resolve any "controversies" submitted to it. *See* Pet'r's Supp. Reply at 4. The statute provides, in relevant part: "[a]ny controversy submitted to [GEC] shall be *tried, heard and decided* within ten (10) days" (emphasis added). Petitioner thus appears to argue that when GEC "tries, hears, and decides" a controversy, it must do so pursuant to AAL procedures.

The Court agrees that the plain meaning of the word "heard" implies a controversy should be resolved through some form of hearing. With that said, "[t]he term 'hearing' in its legal context undoubtedly has a host of meanings." *United States v. Florida East Coast Ry. Co.*, 410 U.S. 224, 239 (1973). In Guam, not all "hearings" are the sort of "formal hearings" that demand full AAL procedures. *See, e.g., Rapadas*, 2011 Guam 28 ¶¶ 24–30 (holding that where statute contemplates only an "informal hearing," the hearing need not comply with AAL procedures); *Guam Federation of Teachers ex rel. Rector v. Perez*, 2005 Guam 25 ¶ 36 (AAL hearing procedures "do not apply to such agency procedures" that do not qualify as formal hearings).

Many Guam statutes explicitly provide for hearings in compliance with the AAL. *See, e.g.*, 21 GCA § 70117(a) (Contractors License Board “shall give the person concerned notice and hearing in conformity with the Administrative Adjudication Law.”); 10 GCA § 12321(d) (Board of Nurse Examiners action “shall be taken only after a hearing before the Board in accordance with the provisions of Chapter II of the Administrative Adjudication Law.”); 12 GCA § 58112 (Guam Economic Development Authority may take action only “after a hearing thereon pursuant to the provisions of the Administrative Adjudication Law.”). When the Legislature indicates that a hearing must be “in conformity,” “in accordance,” or “pursuant to” the AAL, the Legislature thereby requires a formal hearing.

By contrast, 3 GCA § 2106(a) does not contain similar language. This omission is noteworthy because other provisions in 3 GCA Ch. 2 refer to the AAL. *See* 3 GCA § 2103(d) (“the Commission shall promulgate rules, pursuant to Title 5 GCA Chapter 9, necessary and convenient to carry out the provisions of this Title.”); 3 GCA § 2104 (providing that the GEC’s Election Manual “shall be prepared pursuant to the Administrative Adjudication Law”). The Legislature could have referenced the AAL in 3 GCA § 2106(a) as well, but it did not. Had the Legislature intended for GEC to conduct AAL-compliant hearings in order to resolve “controversies,” it would have known the words to use to make that intention clear. The fact that the Legislature omitted such words in 3 GCA § 2106(a) suggests the Legislature had no such intention.

Furthermore, it does not appear possible to hold an AAL-compliant hearing under the timeline provided by 3 GCA § 2106(a). That statute provides that a controversy shall be “tried, heard and decided *within ten (10) days*, counted from the time the corresponding petition giving rise to said controversy is filed.” (emphasis added). In other words, the entire process under 3 GCA § 2106(a)—from filing to decision—must occur within a span of ten days. On the other hand,

under 5 GCA § 9201, a formal hearing is initiated by filing an “accusation.” Under 5 GCA § 9205, the respondent has fifteen days after service of the accusation to file a notice of defense to the accusation. Thus, to comply with both 3 GCA § 2106(a) and the AAL, GEC would need to decide a petition within ten days, but also have afforded the respondent fifteen days to file a response to the petition. Similarly, under 5 GCA § 9216, notice of the hearing must be delivered or mailed at least ten days before the hearing is held. To comply with both 3 GCA § 2106(a) and the AAL, GEC would need to “try, hear, and decide” a controversy within ten days, but also have waited at least ten days to hold the hearing. The inconsistency of these timelines is further evidence that the Legislature did not intend to require GEC to hold AAL-compliant hearings on “controversies.”

The Court concludes that Petitioner was not entitled to an AAL-compliant hearing. Accordingly, the Court **DENIES** Petitioner’s **Request D** for a declaratory judgment that GEC had a duty to comply with the AAL, Pet’r’s Supp. Mem. at 5; Petitioner’s **Request F** for an injunction ordering GEC to resolve Petitioner’s complaint in accordance with the AAL, *id.* at 6; and Petitioner’s **Request I** for a writ of mandamus to that same effect, *id.* at 7.

2. The Court Does Not Decide Moylan’s Alleged Disqualification

In the alternative, Petitioner asks the Court to bypass the GEC and directly decide that Moylan is disqualified under 5 GCA § 30101(b). As above, the statute provides that “[a] candidate for the position of Attorney General of Guam shall declare no political party affiliation.” Petitioner argues that Moylan “has not satisfied the statutory qualification prerequisite of 5 GCA § 30101(b) [because] he declared a political party affiliation at the time of filing his candidate declaration under oath.” Pet. Supp. Mem. at 5.¹¹ Petitioner also argues that Moylan’s listing on the RAGA website is a separate disqualifying fact under 5 GCA § 30101(b). *Id.* at 10.

¹¹Although Petitioner stopped short of directly arguing that the two other candidates formerly registered with a political party (see footnote 3) must also be disqualified under 5 GCA § 30301(b), *see* Hr’g, 9:20–21 A.M., that

Setting aside complex conceptual questions about what it means to “declare” one’s political party affiliation, or whether an organization can “declare” a person’s affiliation for them, there is a more fundamental problem here: Moylan is not a party to this case. It is true that most issues raised in this case, such as the alleged violation of the OGL or Petitioner’s request for further GEC proceedings, do not directly impact Moylan’s rights.¹² But Petitioner’s request for a direct order disqualifying Moylan is different. The Court must analyze that issue in light of Guam Rule of Civil Procedure (“GRCP”) 19, which addresses whether “an absentee is needed for just adjudication.” *Benavente v. Taitano*, 2006 Guam 20 ¶ 58. The rule provides, in relevant part:

(a) Persons to be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if . . .

(2) the person *claims an interest* relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may . . . (i) as a practical matter *impair or impede the person’s ability to protect that interest*[.]

Guam R. Civ. P. 19(a)(2)(i) (emphasis added). Here, neither party contends that Moylan is *not* subject to service of process or that his joinder would deprive the Court of jurisdiction. The Court therefore moves to the other provisions of this rule, inquiring “first, what are the absentee’s interests, if any; and second, as a practical matter, will a judgment impair or impede the absentee’s ability to protect that interest.” *Benavente*, 2006 Guam 20 ¶ 62.

Moylan has a cognizable interest in remaining on the ballot because he is a “nominee” within the meaning of Title 3 GCA. Under 3 GCA § 1115, a “nominee” is defined as “a candidate

seems to be the necessary conclusion from his argument. As such, the Court’s analysis of whether Moylan is an indispensable party under GRCP 19 would apply equally to these other candidates as well.

¹² Accordingly, the Court’s GRCP 19 analysis applies only to Petitioner’s request for a declaration that Moylan is disqualified. Since Moylan is not a “necessary” party to the other requests, GRCP 19 does not bar the Court from addressing those requests in his absence. *See Makah Indian Tribe v. Verity*, 910 F.2d 555, 559–61 (9th Cir. 1990) (affirming dismissal of claims to which a truly necessary party was not joined, but reversing dismissal of other claims because party in question was not necessary to those claims).

who has become entitled to a place on the ballot under the provisions of this Title.” On August 18, 2026, GEC ratified Moylan (and all other Attorney General candidates) to appear on the ballot.¹³ Decl. Maria I.D. Pangelinan at 4 (Sept. 17, 2026). Under 3 GCA § 2107(b), “[t]he name of every candidate who has been certified shall be printed on or adjacent to the appropriate ballot.” Thus, once Moylan’s candidacy was ratified by GEC, he became entitled under 3 GCA § 2107(b) to appear on the ballot, and was thus a “nominee.” In *Benavente v. Taitano*, the Guam Supreme Court held that the trial court did not abuse its discretion when it held, for purposes of a GRCP 19 analysis, that “absent *nominees* have an interest, created by statute, to a placement on the general ballot.” 2006 Guam 20 ¶ 73 (emphasis added). The Court so holds here: for purposes of GRCP 19, Moylan has a cognizable interest in the subject of this action. Moreover, the Court finds it self-evident that deciding Moylan’s alleged disqualification without giving him an opportunity to participate in the matter addressing that question would “impair or impede [his] ability to protect that interest.” Thus, Moylan is a “person[] to be joined if feasible” under GRCP 19(a)(2)(i).

That raises the question of feasibility. Petitioner argues that Moylan is not really a necessary party, but also suggests the Court “can simply order that [Moylan] be joined as a party” if it so chooses. Pet’r’s Supp. Reply at 10. But given the timeline of this case, the issue is not simple. At the time of this writing, early voting has begun, and the general election date is approximately three weeks away. To meaningfully join Moylan to this case now would require the Court to give him an opportunity to actually defend his interest, i.e., through written and/or oral

¹³ In his Supplemental Reply, Petitioner briefly argues that GEC has only “conditionally” ratified Moylan to appear on the ballot “subject to a response,” and thus Moylan’s candidacy was never actually “certified” within the meaning of 3 GCA § 2107. *See* Pet’r’s Supp. Reply at 7. However, Petitioner does not adequately explain the legal basis for distinguishing between a “ratified” candidate, who GEC may place on the ballot, and a “conditionally ratified” candidate, who GEC (allegedly) may not place on the ballot. The Court understands GEC’s actions on August 18, 2026 to be a certification of Moylan’s candidacy consistent with 3 GCA § 2107(a)-(b), and thus a full “ratification.”

arguments. But scheduling further proceedings in this case would delay the Court's final decision until even closer to the general election date, and would thus magnify the potentially disruptive effects of any such decision.

As other courts have noted, "equitable principles may require a court not to interfere with the conduct of rapidly upcoming elections where the election machinery is already in gear." *Farnum v. Burns*, 548 F. Supp. 769, 774; see *Mac Govern v. Connolly*, 637 F. Supp. 111, 115 (D. Mass. 1986); *Cardona v. Oakland Unified School Dist., California*, 785 F. Supp. 837, 843 (N.D. Cal. 1992). Under the facts and timeline of this case, joining Moylan at this junction is not feasible—it is simply too late to do so.

Under GRCP 19(b), when joinder under GRCP 19(a) is not feasible, the Court must "determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable." Here, the Court concludes that Moylan is an indispensable party to Petitioner's request to order Moylan's disqualification, and the Court cannot "in equity and good conscience" decide that issue without Moylan's presence. Accordingly, the Court **DENIES** Petitioner's **Request E** for a declaratory judgment that Moylan is disqualified under 5 GCA § 30101(b). Pet'r's Supp. Mem. at 5.

3. The Court Does Not Grant Injunctive or Writ Relief

Petitioner has also asked for a TRO restraining GEC from printing ballots, a prohibitory injunction restraining GEC from placing Moylan on the ballot, a writ of prohibition to that same effect, and a writ of review to examine and annul GEC's decision on his complaint. The Court denies all four of these remedies for the same core reason: Petitioner has not shown "irreparable harm" meriting injunctive relief, or a lack of "adequate remedy" meriting writ relief, given the availability of a post-election challenge under the Election Contest statutes, 3 GCA § 12101 *et seq.*

Injunctive relief requires the moving party to show “both irreparable injury and likelihood of success on the merits.” *Sule v. Guam Bd. of Examiners for Dentistry*, 2011 Guam 5 ¶ 9. An injury is “irreparable” when there is otherwise “no adequate legal remedy.” *Arizona Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014). Conversely, when a party has another “plain, speedy, and adequate remedy at law,” an injunction should not be granted. *See, e.g., Richards v. Kirkpatrick*, 53 Cal. 433, 434 (1879). Here, the Election Contest statutes provide an alternative remedy. They provide an express cause of action to address whether a “person who has been declared elected to an office other than as a Member of *I Liheslaturan Guåhan* (the Guam Legislature) was not, at the time of the election, eligible to that office.” 3 GCA § 12102(a). They provide for expedited post-election proceedings and, if the challenge is sustained, an expedited judgment to annul or set aside the election. *See* 3 GCA § 12109 (providing for a trial less than twenty-five days after filing); 3 GCA § 12115 (providing for decision to be rendered within ten days of trial). Thus, if Moylan (or another allegedly disqualified candidate) should win the election, Petitioner has a viable pathway to challenge the winner’s disqualification.

Petitioner argues that the Election Contest statutes do not provide a wholly adequate remedy because an action under 3 GCA § 12102(a) arises only after the election occurs. He reasons that (1) a post-election challenge does not vindicate the law providing that unqualified candidates may not appear on the ballot; (2) allowing unqualified candidates onto the ballot would place the actually-qualified candidates at an electoral disadvantage; and (3) voters may feel disenfranchised if the candidate they voted for is disqualified after the election. *See* Hr’g at 11:04–06 A.M. These concerns may indicate that an Election Contest action is not an *ideal* remedy, but they do not convince the Court that a post-election challenge is not an *adequate* remedy. In the Court’s view, the primary issue is not whether an allegedly non-qualified person might be *elected* to the office

of Attorney General; the more important issue is whether such a person might *assume* the office. While an Election Contest claim may not be able to prevent a disqualified person's election, it can prevent a disqualified person from assuming the office they are not entitled to hold. The Court believes that is an adequate remedy to address the core issue here.

Moreover, even if a post-election challenge were *not* an adequate remedy, the Court must consider how granting an injunction so near to the election would affect the public interest. "In awarding or withholding immediate relief, a court is entitled to and should consider the proximity of a forthcoming election and the mechanics and complexities of state election laws, and should act and rely upon general equitable principles." *Reynolds v. Sims*, 377 U.S. 583, 585 (1964). Here, an injunction affecting GEC would likely affect the upcoming election. *See* Supp. Decl. Maria I.D. Pangelinan at 1–2; *cf. Curling v. Kemp*, 334 F. Supp. 3d 1303, 1326 (N.D. Ga. 2020) ("the real question posed in this context is how injunctive relief at this eleventh-hour would impact the public interest in an orderly and fair election, with the fullest voter participation possible and an accurate count of the ballots cast."). This is a serious concern; "[t]he decision to enjoin an impending election is so serious that the [U.S.] Supreme Court has allowed elections to go forward even in the face of an undisputed constitutional violation." *Benavente v. Taitano*, 2006 Guam 20 ¶ 18 (citing *Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 918 (9th Cir. 2003)). Thus, the Court must weigh the potential harm to Petitioner against the potential harm to the public before granting an injunction that would likely affect the election.

Upon that balancing, the Court concludes that even if Petitioner's alleged injury were irreparable, injunctive relief still would not be appropriate here. *Cf.* 11A Wright & Miller, *Federal Practice and Procedure* § 2942 (3d ed.) ("since the purpose of an injunction is remedial, not punitive, if the effect of granting relief . . . would be against public policy or the public interest to

issue the order, it may be denied.”); *Lemon v. Kurtzman*, 411 U.S. 192 (1973) (“In equity, as nowhere else, courts eschew rigid absolutes and look to the practical realities and necessities inescapably involved in reconciling competing interests[.]”). The Court will not grant such relief.

Similar considerations apply to Petitioner’s request for writ relief. Petitioner asks the Court to issue a writ of prohibition preventing GEC from placing Moylan on the ballot, and a writ of review to examine GEC’s evaluation of Petitioner’s complaint. Petitioner’s ultimate purpose with both writs is to see Moylan disqualified. However, both writs require the movant to show, *inter alia*, that he has no other “plain, speedy, and adequate remedy.” 7 GCA §§ 31302, 31102. For the reasons explained above, the Court concludes that a post-election contest is indeed a plain, speedy, and adequate remedy. A post-election challenge would be *plain* because it is explicitly provided by 3 GCA § 12101 *et seq.*; it would be *speedy* because the statutes provide for expedited proceedings immediately after the election; and it would be *adequate* because it is designed to reach the disqualification question at the center of this case. Because Petitioner has another “plain, speedy, and adequate” remedy at law, and in light of the same public interest considerations discussed above, the Court declines to grant writ relief here.

Accordingly, the Court **DENIES** Petitioner’s **Request A** for a TRO against GEC, Pet’r’s Supp. Mem. at 3; Petitioner’s **Request G** for a prohibitory injunction against GEC, *id.* at 6; Petitioner’s **Request J** for a writ of prohibition to GEC, *id.* at 7; and Petitioner’s **Request K** for a writ of review to GEC, *id.*

B. The Court Denies All Requests for Relief Under the OGL

Finally, Petitioner argues that GEC violated the OGL—specifically, the “open meeting” requirement of 5 GCA § 8103(a), and/or the “livestream” requirement of 5 GCA § 8103(d)—when GEC asked him to leave its August 15, 2026 Regular Meeting. V. Compl. at 5. The undisputed

facts relevant to this claim are as follows: (1) On August 15, 2026, GEC commenced a meeting; (2) during this meeting” GEC declared a recess to tabulate votes; (3) GEC asked Petitioner to leave during the recess period; and (4) during the recess period, GEC’s livestream ceased to show video, instead showing a screen reading “Intermission.” The parties dispute whether GEC did anything *other than* tabulate votes during the recess. *Compare* Hr’g at 11:03 A.M. (GEC’s Counsel: “There was nothing, and you can watch the video, there was no discussions, there was no votes . . . during the intermission period at all.”) *with* Pet’r’s Supp. Reply at 3 (during recess, “the Commission continued to deliberate about and conduct business.”).

GEC appears to argue that Petitioner was excluded only from the recess period, not from the “meeting” itself. GEC argues that because it did not take any action or deliberate on any action during the recess, Petitioner’s exclusion from the recess period did not violate 5 GCA § 8103(a). *See* Hr’g at 11:03–08 A.M. Relatedly, GEC argues that even if Petitioner’s exclusion did constitute an open meeting violation, the remedy would be to void only those “actions” GEC took during the recess—and since there were no such actions, there would be nothing for the Court to void. *See id.* at 11:09–10 A.M. To evaluate this argument, the Court must determine the meaning of a “meeting” under the OGL, and the effect of a recess.

The express policy of the OGL is that “the formation of public policy and decisions is public and shall not be conducted in secret.” 5 GCA § 8102. To this end, the OGL requires that “[e]very *meeting* of a public agency shall be open and public, and any person shall be permitted to attend any public agency meeting, except as otherwise provided in this Chapter.” 5 GCA § 8103(a) (emphasis added). The OGL defines a “meeting” as “the convening of a governing body of a public

agency¹⁴ for which a quorum is required in order to *make a decision or to deliberate toward a decision* on any matter.” 5 GCA § 8104(c) (emphasis added). Thus, if an agency holds a session in which it “make[s] a decision or [] deliberate[s] toward a decision on any matter,” then that session is a “meeting” which the public has a right to attend.

The inverse of that principle is also true: if an agency holds a session in which it *does not* “make a decision or [] deliberate toward a decision on any matter,” then that session is *not* a “meeting.” See, e.g., *Ward v. Bd. of Trustees of Goshen County School Dist. No. 1*, 865 P.2d 618, 622 (Wyo. 1993) (“Since there was no action at [informal] assemblies, there was no ‘meeting’ under the act.”); *Cincinnati Enquirer v. Cincinnati Bd. of Educ.*, 949 N.E.2d 1032, 1035–36 (Ohio Ct. App. 2011) (since “no deliberations had taken place and no decisions had been reached during the board’s nonpublic information-gathering and investigative session,” the session “was not a ‘meeting’ as defined by the [Ohio Open Meetings Act], so it was not required to occur in public.”); *Common Cause v. Morial*, 506 So.2d 167, 169 (La. 1987) (affirming trial court’s conclusion that no “action, vote, deliberation, or discussion” had occurred, and so no “meeting” took place).

Here, there is no dispute that the August 15, 2026 Regular Meeting began as a “meeting” within the meaning of 5 GCA § 8103(c). Thus, the open meeting requirement clearly applied at least until the point when GEC announced its recess. The question, then, is whether (or to what extent) the open meeting requirement applied *during* the recess.

The OGL does not define (or use) the word “recess.” The OGL provides for the “adjournment” of a meeting, see 5 GCA §§ 8109–10, but neither party contends that the recess should be understood as an adjournment. The OGL also provides for “executive sessions,” see 5

¹⁴ GEC is a “public agency” within the meaning of the OGL. See 5 GCA § 8104(a) (“‘Public agency’ includes any board, *commission* or comparable unit of government, any of whose members are elected, appointed by / *Maga’hāgan/Maga’lāhen Guāhan*. . . .”); 3 GCA § 2101(a)(1) (GEC “shall consist of seven (7) members . . . / *Maga’hāgan/Maga’lāhen Guāhan* shall appoint six (6) members . . .”).

GCA § 8111, which are designated non-public sessions for discussion of sensitive issues like “impending legal matters”), but neither party contends that the recess would qualify as an executive session. The Court therefore looks to the ordinary meaning of the word “recess.” Typical definitions indicate that a recess is a break from, or suspension of, a proceeding. *See, e.g., Pangelinan v. Gutierrez*, 2000 Guam 11 ¶ 18 (“a recess is only an interruption or break in a meeting.”) (quoting American Soc’y of Legislative Clerks & Secretaries, *Mason’s Manual of Legislative Procedure* § 214 (1989)); *Recess*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/recess> (last visited Oct. 10, 2026) (“a suspension of business or procedure”) (emphasis added); *Recess*, Black’s Law Dictionary (12th ed. 2024) (“A [usually] short suspension of activity, business, etc.”). From these definitions, the Court concludes that a “recess” is a break from the meeting itself. And if a recess is a break from a meeting, then the recess is not the same thing as the meeting itself—it is separate and distinct from the meeting.

With this perspective, the Court concludes that GEC’s recess was not simply a continuation of the August 15, 2026 Regular Meeting, but rather a period apart from the meeting. Since the recess period was not a continuation of the prior meeting, the open meeting requirement did not continue through the recess period. Instead, the recess must be analyzed as its own entity. If a quorum of GEC members made or deliberated on any decision during the recess, then the recess was itself a “meeting” to which the OGL applies. *See* 5 GCA § 8104(c). But if GEC *did not* make or deliberate on any action during the recess, then the recess did not trigger any open meeting requirement. *See Copple v. City of Lincoln*, 274 N.W.2d 520, 523 (Neb. 1979) (no violation of Nebraska open meeting law during recess because “no vote was taken”); *Conners v. West Greene School Dist.*, 569 A.2d 978, 983 (Pa. Commw. Ct. 1989) (no violation of Pennsylvania open meeting law because agency not prohibited from holding informal “discussions” during recess).

GEC argues that during its recess, it was merely tabulating votes, and that this act did not trigger the open meeting requirement and require that the public be allowed to attend. The Court agrees. To “tabulate” votes means “to count, record, or list systematically.”¹⁵ Counting, recording, or listing votes is not “mak[ing] a decision” or a “deliberat[ing]” toward a decision—it is a ministerial act. *See State ex rel. Stewart v. Marks*, 74 Tenn. 12, 20 (1880) (a duty “involving simply the labor of counting the votes returned and determining who has received the highest number of votes, is strictly ministerial.”); *People ex rel. Griffith v. Bundy*, 109 P.2d 261, 264 (Colo. 1941) (“in totalling [sic] such absent vote and in adding the result to the vote of the candidates or questions entitled thereto, it would seem clear that ministerial duties are performed.”). Because vote tabulation is a purely ministerial act, the mere act of tabulating votes does not *create* a “meeting” under the OGL. So, for purposes of determination of whether a “meeting” occurred, vote tabulation is a non-factor; the issue is whether there was a decision or deliberation.

Petitioner contends that GEC actually engaged in deliberations during the recess, but he does not provide any direct evidence for this claim, nor does he specify a particular matter he believes GEC deliberated on. *See Pet'r's Supp. Reply* at 2. Petitioner argues that he cannot know whether or what GEC deliberated about, precisely because he was excluded from the recess. The Court is sympathetic to Petitioner's dilemma, but without *some* evidence of a decision or deliberation during the recess, the Court would have no basis on which to conclude that the recess was a “meeting,” and thus that Petitioner had a right to remain in attendance.

In an ordinary civil matter, there would perhaps be time and discovery tools available to supplement the factual record. Here, however, Petitioner has presented the matter for decision on

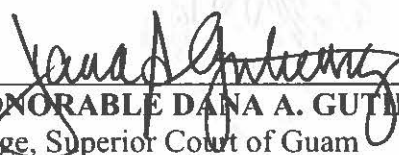
¹⁵ *Tabulate*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/tabulate> (last visited Oct. 10, 2026).

an emergency basis. On the record as it stands today, there is no evidence in the record that GEC decided or deliberated on any matter during the recess period. As such, the Court does not find that GEC held a “meeting” during the recess, and so the Court does not find that GEC violated 5 GCA § 8103(a) when it excluded Petitioner from the recess. Likewise, because the record does not prove that GEC held a “meeting” during the recess, the Court does not find that GEC violated 5 GCA § 8103(d) when it failed to publicly livestream the recess. Accordingly, the Court **DENIES** Petitioner’s **Request B** for declaratory judgment that GEC violated the OGL, Pet’r’s Supp. Mem. at 5; Petitioner’s **Request C** for declaratory judgment that all actions taken at the August 15 meeting are void and of no effect, *id.*; and Petitioner’s **Request H** for a prohibitory injunction ordering GEC not to violate the OGL again, *id.* at 6.

CONCLUSION

For the foregoing reasons, the Court **DENIES** the Verified Petition and Request for OSC, and will enter judgment accordingly.

SO ORDERED this 14th day of October 2026.


HONORABLE DANA A. GUTIERREZ
Judge, Superior Court of Guam