

*I MINA'TRENTAI TRES NA LIHESLATURAN GUAHAN*  
2015 (FIRST) Regular Session

Bill No. 2015-33(LS)

Introduced By:

J. T. Won Pat, Ed.D. 

N.B. Underwood, Ph.D. 

**AN ACT TO AMEND EXHIBIT 1 OF PUBLIC LAW 32-236;  
RELATIVE TO THE RULES AND REGULATIONS  
GOVERNING THE STANDARDS OF PROFESSIONAL  
CONDUCT FOR GUAM EDUCATORS.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1.** §27008.1 of Chapter 27, Division 3 of Title 17 Guam Code Annotated is hereby amended to read as follows:

“The Chairperson of the Guam Commission For Educator Certification, upon his / her own initiative, upon the request of any member of the Commission, or upon the request of any party before the Commission, and with the approval of the Commission, may summon in writing any person before a meeting of the Commission as a witness and in a proper case, to bring with him / her any book, record, or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before the Superior Court, except that if the witness is a government employee no witness fees shall be given. The subpoena shall issue in the name of the Guam Commission For Educator Certification, and shall be directed to the person and shall be served in the same manner as subpoenas and testify before the court. If any person or

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1 persons summoned to testify shall refuse or neglect to obey said subpoena, upon  
2 petition, the court may compel the attendance of such persons or persons before the  
3 Commission, or punish said person or persons for contempt in the same manner  
4 provided by law for securing the attendance of witnesses of their punishment for  
5 neglect or refusal to attend in the Superior Court.”

6 **Section 2.** 3.02 of Exhibit 1 of Public Law 32-236 is amended to read as  
7 follows:

8 “3.02 Complaint may be filed with the Guam Commission For Educator  
9 Certification (GCEC) by any interested party within one year from the date when  
10 the complainant knew or should have known of the alleged misconduct. If the  
11 alleged misconduct is of a continuing nature then the complaint must be filed  
12 within one year from the last date on which the conduct occurred. Complaints  
13 involving sexual abuse or exploitation of a child or student may be filed up until  
14 three years after the student reaches 18 years of age.

15 Complaints filed with the Guam Commission For Educator Certification must be in  
16 writing with the name, address, a statement of the complaint with the facts  
17 supporting the allegation, and must be signed by the complainant (parent, educator,  
18 superintendent, principal, interested party) and notarized. Filing a false complaint  
19 is punishable under § 52.20, Chapter 9 of Title 9 Guam Code Annotated.”

20 **Section 3.** 3.09 of Exhibit 1 of Public Law 32-236 is hereby repealed and  
21 reenacted to read as follows:

22 ~~—————3.09 Immoral conduct is conduct or behavior which is contrary to~~  
23 ~~commonly accepted moral or ethical standards and endangers the health, welfare,~~  
24 ~~safety or education of any student.~~

25 3.09. Immoral conduct is conduct or behavior includes, but is not limited to:

1 3.09.1. Sexual conduct, as defined in 9 G.C.A. § 25.10, involving a  
2 minor or a person he or she knows, reasonably should know, or should have known  
3 is a student at a public elementary or secondary school or private elementary or  
4 secondary school;

5 3.09.2. Conduct, resulting in the filing of indictment by a grand jury  
6 under any of the following statutes:

7 3.09.2.1. 9 GCA §25.15. First Degree Criminal Sexual Conduct;

8 3.09.2.2. 9 GCA §25.20. Second Degree Criminal Sexual Conduct;

9 3.09.2.3. 9 GCA §25.25. Third Degree Criminal Sexual Conduct;

10 3.09.2.4. 9 GCA §25.30. Fourth Degree Criminal Sexual Conduct;

11 3.09.2.5. 9 GCA§25.35. Assault with Intent to Commit Criminal  
12 Sexual Conduct;

13 3.09.2.6. 9 GCA § 25.01.10. Indecent Electronic Display to a  
14 Child.

15 3.09.2.7. 9 G.C.A. § 25.01.20. Electronic Enticement of a Child as  
16 a Third Degree Felony;

17 3.09.2.8. 9 § 25.01.30. Electronic Enticement of a Child as a  
18 Second Degree Felony;

19 3.09.2.9. 9 G.C.A. §25.01.40. Electronic Enticement of a Child as  
20 a First Degree Felony;

21 3.09.2.10. 9 G.C.A. § 25.01.60 Possession of Child Pornography;

22 3.09.2.11. 9 G.C.A. § 25.01.70. Dissemination of Child  
23 Pornography;

24 3.09.2.12. 9 G.C.A. § 28.52. Use of One's Child in Obscene Acts;

25 3.09.2.13. 9 GCA § 28.65. Indecent exposure;

- 1 3.09.2.14. 9 G.C.A. § 28.80. Photography of Minors' Sexual Acts;
- 2 3.09.2.15. 9 G.C.A. § 28.90. Obscene, Anonymous, Harassing and  
3 Threatening Communications by Computer;
- 4 3.09.2.16. 9 G.C.A. § 28.100. Illegal Use of a Computer or  
5 Telecommunications Device to Disseminate Prohibited Materials Involving a  
6 Minor-Sexting;
- 7 3.09.2.17. 9 G.C.A. § 28.101. Illegal Use of a Computer or  
8 Telecommunications Device to Disseminate Prohibited Materials Involving a  
9 Minor-Sexting;
- 10 3.09.2.18. 9 GCA §31.15. Incest;
- 11 3.09.2.19. 9 G.C.A. § 31.30. Child Abuse;
- 12 3.09.2.20. 9 G.C.A. § 22.40. Child Stealing;
- 13 3.09.2.21. 9 G.C.A. § 22.50. Custodial Interference;
- 14 3.09.2.21. 9 G.C.A. § 70.40.1. Obscene Telephone Service  
15 Prohibited; Penalty.
- 16 3.09.2.22. 9 G.C.A. § 70.40.2. Certain Obscene Telephone  
17 Communications Prohibited
- 18 3.09.2.23. 16 G.C.A. § 321. Obscene Markings.
- 19 3.09.2.24. 9 G.C.A. § 61.20. Harassment
- 20 3.09.2.25. 5 G.C.A. § 73101 § 73101. Imports Prohibited.
- 21 3.09.2.26. 9 G.C.A. § 67.401.1. Possession, Etc. for Illegal  
22 Delivery, Dispensing or Manufacturing; Defined; Punishments Classified  
23 According to Drug Class Involved.
- 24 3.09.2.27. 9 G.C.A. § 67.401.2. Illegal Possession

- 1                   3.09.2.28. 9 G.C.A. § 67.402. Prohibited Acts B;
- 2                   3.09.2.29. 9 G.C.A. § 67.403. Prohibited Acts C;
- 3                   3.09.2.30. 9 G.C.A. § 67.404. Counterfeit Substance Prohibited;
- 4                   3.09.2.31. 9 G.C.A. § 67.405. Imitation Controlled Substances  
5 Prohibited; 3.09.2.32. 9 G.C.A. § 67.406. Conspiracy; Solicitation; Attempt;
- 6                   3.09.2.33. 9 G.C.A. § 67.407. Distribution to Persons Under Age  
7 Eighteen (18), to Persons Suffering from a Mental Illness, Disease or Defect, or to  
8 Pregnant Persons; Distribution Near Schools or Drug Free School Zones;
- 9                   3.09.2.34. 9 G.C.A. § 67.408. Employment or Use of Individual  
10 Under 18 Years of Age in Drug Operations;
- 11                   3.09.2.35. 9 G.C.A. § 67.409. Continuing Criminal Enterprise;
- 12                   3.09.2.36. 9 G.C.A. § 67.410. Money Laundering and Illegal  
13 Investment;
- 14                   3.09.2.37. 9 G.C.A. § 67.411. Second or Subsequent Offenses;
- 15                   3.09.2.38. 9 G.C.A. § 19.70. Stalking;
- 16                   3.09.2.39. 9 G.C.A. § 71.30. Person Not Allowed to Possess  
17 Firearms.
- 18                   3.09.2.40. 9 G.C.A. § 71.40. Prohibition on Discharge of Firearm;
- 19                   3.09.2.41. 9 G.C.A. § 71.50. Firearms Prohibited on University or  
20 College Property;
- 21                   3.09.3. Using threat to coerce gang membership;
- 22                   3.09.4. Supplying firearms to criminal street gang;
- 23                   3.09.5. Repeated convictions for violations of any one or more of the  
24 criminal laws, which violations are not otherwise grounds for suspension or

1 revocation, if the repeated convictions, taken together, demonstrate that the  
2 educator is unwilling to conform their conduct to the requirements of law;

3 3.09.6. Submitting false credentials, omitting relevant  
4 information, or making any statement of material fact an educators knows to be  
5 false to apply for an educator certificate. False credentials include:

6 3.09.6.1. College degrees or credit from non-accredited or non-  
7 approved colleges or universities;

8 3.09.6.2. False professional development;

9 3.09.6.3. False academic awards; or

10 3.09.6.4. Inaccurate employment history;

11 3.09.7. Intentionally falsifying or deliberately misrepresenting  
12 information regarding standardized assessment of students, including but not  
13 limited to providing or changing test answers or using inappropriate testing  
14 accommodations or modifications.

15 **Section 4.** 3.10 of Exhibit 1 of Public Law 32-236 is hereby repealed:

16 ~~“3.10 Incompetency is a documented pattern of inadequate~~  
17 ~~performance of duties or the lack of ability, legal qualifications or fitness to~~  
18 ~~discharge required duties, and which endangers the health, welfare, safety or~~  
19 ~~education of any student.”~~

20 **Section 5.** 3.20 of Exhibit 1 of Public Law 32-236 is hereby amended to read  
21 as follows:

22 “3.20 School-sponsored activity is any event or activity sponsored by  
23 the school or school system which includes but is not limited to athletic events,  
24 booster clubs, parent-teacher organizations, or any activity designed to enhance the  
25 school curriculum, whether on school-campus or not or on off-island trips.

1 Activities not intended for student participation, such as school-related fundraisers  
2 and holiday parties, are excluded.”

3 **Section 6.** A new 3.26 of Exhibit 1 of Public Law 32-236 is hereby added to  
4 read as follows:

5 “3.26 Educator misconduct shall mean any act that violates the “Standards  
6 of Professional Conduct” (As defined in 4.0) that occurs in various forms and  
7 ranges in severity from allegations of direct harm to students to an act detrimental  
8 to the education profession.”

9 **Section 7.** 4.02.7 of Exhibit 1 of Public Law 32-236 is hereby amended to read  
10 as follows:

11 “4.02.7 Failing to ~~prevent~~ report the use of alcohol or illegal or  
12 unauthorized drugs by students who are under the educator’s supervision,  
13 including school grounds, school functions and the educator’s residence or any  
14 other setting.”

15 **Section 8.** 4.03.1 of Exhibit 1 of Public Law 32-236 is hereby amended to read  
16 as follows:

17 4.03.1 Being on school premises or at a school-related activity as cited in  
18 3.20 while under the influence of, possessing, using, or consuming illegal or  
19 unauthorized drugs (As defined in Title 9 Guam Code Annotated); and

20 **Section 9.** 4.03.2 of Exhibit 1 of Public Law 32-236 is hereby amended to read  
21 as follows:

22 “4.03.2 Being on school premises or at a school-related activity ~~involving~~  
23 with students present while under the influence of, possessing, or consuming  
24 alcohol. A school-related activity ~~includes, but is not limited to, any activity~~  
25 sponsored by the school or school system (booster clubs, parent-teacher

1 organizations, or any activity designed to enhance the school curriculum, off-island  
2 trips).“

3 **Section 10.** 4.08 of Exhibit 1 of Public Law 32-236 is amended to read as  
4 follows:

5 “4.08 Standard 8: Required Reports - An educator shall file reports of a  
6 breach of one or more of the Standards of Professional Conduct for Educators, or  
7 child abuse ~~or any other required report~~. Unethical conduct includes:”

8 **Section 11.** 4.08.1 of Exhibit 1 of Public Law 32-236 is amended to read as  
9 follows:

10 “4.08.1 Failure to report all requested information on documents required  
11 by the Commission when applying for or renewing any certificate with the  
12 Commission; and”

13 **Section 12.** 4.08.2 of Exhibit 1 of Public Law 32-236 is repealed:

14 “~~4.08.2 Failure to make a required report of a violation of one or more~~  
15 ~~Standards of Professional Conduct for educators of which they have personal~~  
16 ~~knowledge as soon as possible but no later than ninety (90) days from the date the~~  
17 ~~educator became aware of an alleged breach unless the law or local procedures~~  
18 ~~require reporting sooner; and”~~

19 **Section 13.** 4.08.3 of Exhibit 1 of Public Law 32-236 is amended to read as  
20 follows:

21 “4.08.3 Failure to make a required report within 90 days from the date an  
22 educator became aware of a ~~any~~ violation of Guam or federal law involving as  
23 ~~soon as possible but no later than ninety (90) days from the date the educator~~  
24 ~~became aware of an alleged breach unless the law or local procedures require~~  
25 ~~reporting sooner. These reports include but are not limited to: murder; voluntary~~  
26 ~~manslaughter; aggravated assault; aggravated battery; kidnapping; any sexual~~  
27 ~~offense; any sexual exploitation of a minor; any offense involving a controlled~~



1 substance, illegal, or unauthorized drugs; and any abuse of a student if an educator  
2 has reasonable cause to believe that ~~a student has been~~ abused has occurred.”

3 **Section 14.** 4.09 of Exhibit 1 of Public Law 32-236 is amended to read as  
4 follows:

5 “4.09 Standard 9: Professional Conduct - An educator shall demonstrate  
6 conduct that follows generally recognized professional standards and preserves the  
7 dignity and integrity of the teaching profession (As defined in 5A GAR Education  
8 Chapter 8 §8116). Unethical conduct includes:”

9 **Section 15.** 6.01.2 of Exhibit 1 of Public Law 32-236 is amended to read as  
10 follows:

11 “6.01.2 Knowingly failed to report actual or suspected child abuse, assault  
12 or battery or report alleged misconduct by instructional personnel or school  
13 administrators which affects the health, safety, or welfare of a student.”

14 **Section 16.** 6.01.4 of Exhibit 1 of Public Law 32-236 is amended to read as  
15 follows:

16 “6.01.4 Has been guilty of immoral conduct as defined in 3.09, ~~gross~~  
17 ~~immorality or an act involving moral turpitude.~~ “

18 **Section 17.** 6.02.2 of Exhibit 1 of Public Law 32-236 is amended to read as  
19 follows:

20 “6.02.2 Knowingly failed to report actual or suspected child abuse, assault  
21 or battery or report alleged misconduct by instructional personnel or school  
22 administrators which affects the health, safety, or welfare of a student.

23 **Section 18.** 6.02.4 of Exhibit 1 of Public Law 32-236 is amended to read as  
24 follows:

25 “6.02.4 Has been guilty of ~~gross immorality or an act involving moral~~  
26 ~~turpitude~~ immoral conduct as defined in 3.09.”

1       **Section 19.** 6.04 of Exhibit 1 of Public Law 32-236 is hereby repealed:

2       “~~6.04 An individual whose license has been revoked or suspended shall not~~  
3 ~~serve as a volunteer, a coach, or be employed as an educator, paraprofessional,~~  
4 ~~aide, substitute teacher, or in any other position directly related to student~~  
5 ~~supervision, during the period of his or her revocation or suspension.”~~”

6       **Section 20.** 6.06.3 of Exhibit 1 of Public Law 32-236 is amended to read as  
7 follows:

8       “6.06.3 Who has been dismissed or severed from employment because of  
9 ~~conduct involving any immoral, unnatural, or lascivious act~~ conduct as defined in  
10 3.09.”

11       **Section 21.** 1 c. of Appendix A, of Exhibit 1 of Public Law 32-236 is hereby  
12 amended to read as follows:

13       “c. When appropriate, GCEC will provide a copy of the complaint against  
14 the school administrator/Superintendent where the educator is employed.”

15       **Section 22.** 1 e. of Appendix A, of Exhibit 1 of Public Law 32-236 is hereby  
16 amended to read as follows

17       “e. A letter may be sent to the appropriate school administrator  
18 Superintendent (at the discretion of the Executive Director), if necessary, about  
19 disposition of complaint via (1) certified mail, return receipt requested, (2) E-Mail  
20 (PDF of written letter) from the Executive Director or his/her designee with a  
21 return e-mail acknowledging receipt, (3) personal delivery by the Executive  
22 Director or his/her designee or (4) personal delivery by a licensed process server.”

23       **Section 23.** 4 l. of Appendix A, Exhibit 1 of Public Law 32-236 is hereby  
24 amended to read as follows:

25       1. The educator shall have ~~fifteen~~ thirty (~~15~~ 30) calendar days from the receipt  
26 of the decision and recommendation to appeal the Ethics Review Sub-committee’s  
27 decision to the GCEC chair. Should the educator not file an appeal within the

1 previously-referenced time period, the decision of the Ethics Review Sub-  
2 committee shall become non-appealable at the commission level.

3 **Section 24.** 2 b. of Appendix A, Exhibit 1 of Public Law 32-236 is amended  
4 to read as follows:

5 ~~“b. An investigation will be conducted by the Ethics Officer of the Ethics~~  
6 ~~Review Sub-Committee’s determination to proceed. Investigatory jurisdiction will~~  
7 ~~be assumed by an external entity following appropriate procedures, including~~  
8 ~~subpoenas as required by law.”~~

9 **Section 25.** 4 l. of Appendix A, Exhibit 1 of Public Law 32-236 is amended to  
10 read as follows:

11 “l. The educator shall have fifteen (15) calendar days from the receipt of the  
12 decision and recommendation to appeal the Ethics Review Sub-committee’s  
13 decision to the GCEC chair. Should the educator not file an appeal within the  
14 previously-referenced time period, the decision of the Ethics Review Sub-  
15 committee shall become non-appealable. Judicial review may be had pursuant to §  
16 9240 and § 9241 of Title 5 Guam Code Annotated.