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**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session**

Bill No. 1 (LS)

As substituted by the Committee on
Education & Community Development,
and as amended on the Floor.

*

Introduced by:

R. Klitzkie
L. F. Kasperbauer
Mark Forbes

J. M.S. Brown
J. A. Lujan
Ray Tenorio
Edward J.B. Calvo
A. R. Unpingco
Mike Cruz
F. B. Aguon, Jr.
B. J.F. Cruz
L. A. Leon Guerrero
A. B. Palacios
R. J. Respicio
J. T. Won Pat

**AN ACT TO ADD NEW ITEMS 11, 12, 13, AND 14, TO 1
GCA §715; TO AMEND 5 GCA §1302; TO AMEND 5 GCA
§1303; TO AMEND 5 GCA §3101; TO AMEND 5 GCA §3107;
TO AMEND 5 GCA §4109; TO AMEND 5 GCA §22203; TO
ADD NEW §1116 TO 19 GCA; TO ADD NEW §7116 TO 7
GCA; TO AMEND §11307 OF 7 GCA; TO ADD NEW §12108.1
TO 7 GCA; TO AMEND 7 GCA §20302; TO ADD NEW
§26603.1 TO 7 GCA; TO AMEND 17 GCA §3103 (j); TO
AMEND 17 GCA §3112(a) 14; TO ADD NEW §3210 TO 17
GCA; TO ADD NEW §15136 TO 20 GCA PART 4; RELATIVE
TO THE DUTIES AND RESPONSIBILITIES OF BBMR, THE
MANAGEMENT OF ALLOTMENTS, THE DEPARTMENT
OF ADMINISTRATION, PROGRAM EXECUTION, THE**

**DUTIES OF THE DIRECTOR OF ADMINISTRATION,
LIMITATIONS OF ACTIONS, STANDING TO SUE,
INJUNCTIONS, ATTORNEYS FEES, SUIT BY MINORS,
AND THE DUTIES OF THE SUPERINTENDENT AND THE
GEPB; TO ENACT THE EVERY CHILD IS ENTITLED TO
AN ADEQUATE PUBLIC EDUCATION ACT.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

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13 Section 1. *Short title. This Act may be cited as the "Every Child is*
14 *Entitled to an Adequate Public Education Act".*

15 Section 2. *Declaration of Policy. I Liheslaturan Guåhan declares that*
16 *the education of our children is the top priority of our government. The*
17 *resources of the government must first be directed toward providing an*
18 *adequate public educational system.*

19 Section 3. *Statement of Legislative Findings and Purpose. I*
20 *Liheslatura (the Legislature) finds that the Organic Act requires the*
21 *government of Guam to provide an adequate system of public education. The*
22 *Organic Act Bill of Rights mandates compulsory education for children*
23 *between six (6) and sixteen (16). The interplay of these provisions creates a*

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1 right to an adequate public education for children that is analogous to a
2 constitutional civil right.

3 This Act recognizes that civil right and gives school children access to
4 the courts to vindicate that right with the parent of a child empowered to
5 conduct litigation on behalf of the child.

6 While the term 'Adequate Public Education' is not easily defined, the
7 Legislature finds that a working definition dealing with the physical aspects
8 of the educational process is necessary to secure and protect at least the
9 minimal right of children to an adequate education and to the end has defined
10 that term.

11 Since the Organic Act assigns the responsibility of providing an
12 adequate public educational system to the entire government and all
13 government officials, the scope of the Act is government-wide.

14 **Section 4. Definitions. New items 11, 12, 13, and 14 are added to 1**
15 **GCA §715 to read:**

16 "11. '*Adequate Public Educational System*' means a system of public
17 schools that provides an adequate public education to public school
18 students.

19 12. '*Adequate public education*' means public schools which at the
20 minimum provide:

- 21 a) a certified teacher for every class in a ratio established
22 by relevant collective bargaining agreements;
23 b) certified professional administrators;
24 c) certified guidance counselors;
25 d) certified school health counselors;

- 1 e) certified allied health professionals;
- 2 f) air conditioned or properly ventilated classrooms in
- 3 which the sensible air temperature is no greater than
- 4 78°F.;
- 5 g) potable water sufficient to provide each student a daily
- 6 ration of drinking and washing water;
- 7 h) a reliable supply of electricity;
- 8 i) proper sanitation to include flushable toilets, clean
- 9 restrooms, dining areas and classrooms;
- 10 j) adopted and required textbooks and workbooks issued
- 11 to each public school student for the classes in which he
- 12 or she is enrolled;
- 13 k) libraries, which meet the standards of the American
- 14 Association of School Librarians, at each school,
- 15 operated by certified librarians;
- 16 l) a healthful, safe, sanitary learning environment;
- 17 m) at least one hundred eighty (180) instructional days each
- 18 school year with school years ending *no later than* thirty
- 19 (30) days following the end of the calendared school
- 20 year; and
- 21 n) regular, timely school bus transportation to and from
- 22 the school for his attendance area as established by 17
- 23 GCA §6102 for every child in accordance with policies
- 24 adopted by the Education Policy Board.

1 13. In item 12., above, '*certified*' means that a person holds at least
2 the first level of professional certificate issued in accordance with
3 standards at least as stringent as those in place on the day this Section is
4 effective, for the position he or she holds.

5 14. '*Public school*' means a facility established, maintained or
6 operated pursuant to §29 (b) of the Organic Act, as amended.

7 15. '*Public school student*' means a child who is required to attend
8 school by Section 1421b. (r) of the Organic Act or 17 GCA §6102 who is
9 enrolled in a public school and has not been expelled."

10 **Section 5. Duties and Responsibilities of BBMR. 5 GCA §1302 is**
11 **hereby amended to read:**

12 "**§1302. Duties and Responsibilities of the Bureau.** In addition
13 to the duties and responsibilities prescribed for the Bureau by any other
14 provision of law, the Bureau shall also have the following duties and
15 responsibilities:

16 **(a)** Conduct necessary operational planning and
17 management research and studies to ensure that effective
18 planning and management methods are utilized by departments
19 and agencies of the government of Guam and otherwise to ensure
20 that each public school student receives an adequate public
21 education;

22 **(b)** Subject to the approval of *I Maga'lahi* (the Governor),
23 prescribe a budget calendar for the guidance of all executive
24 agencies and a system of quarterly allotments to insure that

1 appropriations and non-appropriated funds are *not* exhausted
2 beyond the fiscal period for which such appropriations and funds
3 are made available; provided that such budget calendar and
4 quarterly allotments proportionately calculated so as to ensure
5 that every public school student receives an adequate public
6 education;

7 (c) To institute a system of form control; and

8 (d) Perform such other duties and responsibilities as may be
9 prescribed by *I Maga'lahi* (the Governor) or by law."

10 **Section 6. Management of Allotments.** 5 GCA §1303 is hereby
11 *amended to read:*

12 "§1303. **Management of Allotments.** In the release of monthly or
13 quarterly allotments by the Bureau of Budget & Management Research
14 from appropriation acts, the Director thereof shall base such allotments
15 on anticipated cash receipts so that the obligations incurred pursuant to
16 such release of periodic allotments shall have sufficient cash for their
17 payment, provided that sufficient cash shall always be released to the ✓
18 Guam Public School System to provide an adequate public education to
19 every public school student."

20 **Section 7. A new item (o) is hereby added to §3103 of Article 1 of**
21 **Chapter 3 of Title 17 of the Guam Code Annotated.**

22 "(o) **Adequate Public Education Reporting Requirements.** The
23 Superintendent of the Department of Education shall submit a monthly
24 report of all funds available to the Department, whether or not their

1 resources require appropriations by *I Liheslaturan Guåhan*. The report
2 shall also contain a detailed accounting of all expenditures of funds
3 relating such expenditures to the criteria established in 1 GCA §715.
4 The report is to be completed *no later than* fifteen (15) calendar days after
5 the end of each month and shall be certified by the Superintendent
6 acknowledging compliance with 1 GCA §715 and in meeting with the
7 objectives of §3125 of this Chapter. The report shall be submitted to the
8 Guam Education Policy Board, the Speaker of *I Liheslaturan Guåhan* and
9 *I Maga'lahaen Guåhan*. Failure to comply with this Section and the criteria
10 of an adequate public education shall subject the Superintendent to civil
11 liability as provided in 7 GCA §20302."

12 **Section 8. A new §3218 is hereby *added* to Article 2 of Chapter 3 of**
13 **Title 17 of the Guam Code Annotated.**

14 "§3218. **Responsibility of Accountable Officers.** The provisions
15 contained within Chapter 14 of Title 4 GCA shall apply to any employee
16 of the Department of Education, who by reason of his employment, is
17 considered an accountable officer, and it shall be unlawful for that
18 employee to fraudulently, wastefully or improperly disburse funds or
19 authorize the expenditure of funds not in compliance the with criterion
20 established within 1 GCA §715 or in meeting the objectives of 17 GCA
21 §3125 in providing an adequate public education to every public school
22 student."

1 **Section 9. Department of Administration.** 5 GCA §3101 is hereby
2 *amended to read:*

3 “§3101. **Department of Administration.** There is within the
4 Executive Branch of the government of Guam a Department of
5 Administration. The Director of Administration is the head of the
6 Department of Administration. The Director of Administration is
7 appointed by *I Maga’lahi* (the Governor) with the advice and consent of *I*
8 *Lihselatura* (the Legislature). Except for private parking facilities, and for
9 parking facilities maintained and operated by the A. B. Won Pat ~~Guam~~^{Guam} ✓
10 International Airport Authority, DOA shall have exclusive franchise
11 within the government of Guam for the collection of fees for the
12 furnishing of public parking within Guam. It is the duty of the Director
13 of Administration to support an adequate public educational system as
14 required by Section 29(b) of the Organic Act, as amended.”

15 **Section 10. Guam Public School System.** 5 GCA §3107 is hereby
16 *amended to read:*

17 “§3107. **Guam Public School System.** There is within the
18 Executive Branch of the government of Guam a Guam Public School
19 System. It is the mission of the Guam Public School System and the
20 duty of all public officials of the Executive Branch of the government of
21 Guam to provide an adequate public educational system as required by
22 Section 29(b) of the Organic Act, as amended, and to that end provide an
23 adequate public education for all public school students as those terms
24 are defined at 1 GCA §715; and to effectuate an increase in the

1 percentage of the students at Level 3, which demonstrates solid
2 academic performance as measured by SAT 10, by at least five percent
3 (5%) each grade level per year until the Guam Education Policy Board's
4 adopted goal of ninety percent (90%) at Level 3 in ten (10) years is
5 reached."

6 **Section 11. Program Execution.** 5 GCA §4109 is hereby *amended to*
7 **read:**

8 "§4109. Program Execution. (a) Except as limited by policy
9 decisions of *I Maga'lahi* (the Governor), appropriations by *I Liheslatura*
10 (the Legislature), and other provisions of law, the territorial agencies
11 shall have full authority for administering their program service
12 ~~assignments, and shall be responsible for their proper management,~~
13 provided that *I Maga'lahi's* (the governor's) policy decisions shall *not*
14 limit the authority of the Guam Public School System.

15 (b) Each territorial agency, (other than *I Liheslatura* (the
16 Legislature) and the courts), shall prepare an annual plan for the
17 operation of each of its assigned programs. The operations plan shall be
18 prepared in the form and content and be transmitted on the date
19 prescribed by the Bureau of Budget and Management Research.

20 (c) The Bureau of Budget and Management Research shall:

21 (1) Review each operations plan to determine that it is
22 consistent with the policy decisions of *I Maga'lahi* (the Governor)
23 and appropriations by *I Liheslatura* (the Legislature), that it reflects
24 proper planning and efficient management methods, that

1 appropriations have been made for the planned purpose and will
2 *not* be exhausted before the end of the fiscal year.

3 (2) Approve the operations plan if satisfied that it meets the
4 requirements under Paragraph (1). Otherwise the Bureau of
5 Budget and Management Research shall require revision of the
6 operations plan in whole or in part.

7 (3) Modify or withhold the planned expenditures at any time
8 during the appropriation period if the Bureau of Budget and
9 Management Research finds that such expenditures are greater
10 than those necessary to execute the programs at the level
11 authorized by *I Maga'lahi* (the Governor) and *I Liheslatura* (the
12 Legislature), or that the receipts and surpluses will be insufficient
13 to meet the authorized expenditure levels, provided that no
14 planned expenditures necessary to provide every public school
15 student an adequate public education shall be modified or
16 withheld.

17 (d) No territorial agency (except *I Liheslatura* (the Legislature) and ✓
18 the courts), may increase the salaries of its employees, employ
19 additional employees or expend money or incur any obligations except
20 in accordance with law and with a properly approved operations plan.

21 (e) The Bureau of Budget and Management Research shall report
22 quarterly to ~~*I Maga'lahi*~~ ^{*o/k*} ~~*Liheslatura*~~ (the Governor) and *I Liheslatura* (the ✓
23 Legislature) on the operations of each territorial agency, relating actual
24 accomplishments to those planned, and modifying, if necessary, the
25 operations plan of any agency for the balance of the fiscal year."

1 Section 12. Duties of Director of Administration. 5 GCA §22203 is
2 hereby *amended* to read:

3 “§22203. Duties of Director. /The Director shall, with due regard ✓
4 for the function of the specific agencies concerned, organize and operate
5 the accounting system on a fund basis with a self-balancing set of
6 accounts, recording cash and/or other resources together with all
7 related liabilities, obligations, reserves and equities which are
8 segregated for the purpose of carrying on specific activities or attaining
9 certain objectives; establish an accounting system which provides
10 budgetary control over general governmental revenues and
11 expenditures; determine fairly and with full disclosure the financial
12 position and results of financial operations; show that all applicable
13 legal provisions have been complied with; establish various types of
14 funds as are necessary and as required by law; shall account in the
15 General Fund all financial transactions not properly accounted for in
16 another fund; shall account in the Special Revenue Funds all proceeds of
17 specific revenue sources or to finance specific activities as required by
18 law; shall account in the capital improvements funds all receipts and
19 disbursements of monies used for the acquisition of capital facilities;
20 shall account in other funds consistent with legal and operating
21 requirements; classify accounts to insure compliance with budgetary
22 provisions; provide a basis for financial and administrative control,
23 furnish data required for financial statements and provide a basis for
24 comparison with similar data for other periods, etc.; establish standards,
25 procedures and techniques for a central accounting system; conduct a

1 continuing review of all accounting operations to effect improvements
2 in accordance with current accounting practices; establish standards for
3 the preparation of financial statements and other reports as are
4 necessary; maintain all Federal grant award funds including
5 maintenance of encumbrance and expenditure; and obtain reports from
6 all departments and agencies as are required for the effective
7 administration of a central accounting system; and take all actions
8 necessary to ensure that an adequate public education is available to
9 every public school student.”

10 **Section 13. Department of Education Appropriation.** *I Liheslaturan*
11 *Guåhan* shall annually appropriate from the General Fund or any other funds
12 determined to be appropriate by *I Liheslaturan Guåhan* to the Guam Public
13 School System all amounts necessary to provide an adequate public
14 educational system as required by Section 29(b) of the Organic Act, as
15 amended, and to that end provide an adequate Public Education for all Public
16 School students as those terms are defined in 1 GCA §715.

17 **Section 14. Expedited Schedule of Discovery.** A new §7116.1 is
18 hereby *added* to 7 GCA to read:

19 “§7116.1. **Expedited Schedule of Discovery.** At the first hearing
20 before the Superior Court in any action brought under the Every Child
21 is Entitled to an Adequate Public Education Act, the court may order an
22 expedited schedule of discovery and pleading, and an expedited
23 schedule and trial date for the case, if requested by any party.”

1 Section 15. Limitation of Actions. §11311 of 7 GCA is hereby
2 *amended* to read:

3 “§11311. Within six (6) months, an action against an officer, or
4 officer de facto:

5 (1) to recover any goods, wares, merchandise or other property
6 seized by such officer in his official capacity as tax collector, or to
7 recover the price or value of any goods, wares, merchandise or other
8 personal property so seized, or for damages for the seizure, detention,
9 sale of or injury to any goods, wares, merchandise or other personal
10 property seized, or for damages done to any person or property in
11 making any such seizure;

12 (2) to recover stock sold for a delinquent assessment, as provided
13 in [339 of the Civil Code];

14 (3) to set aside or invalidate any action taken or performed by a
15 majority of the trustees of any corporation heretofore or hereafter
16 dissolved by operation of law, including the revivor of any such
17 corporation.

18 (4) to bring an action upon a claim by a public school student for
19 denial of an adequate public education.

20 The lack of funding or failure to release allotments shall not
21 constitute a defense to claims under this Section unless the named
22 respondent, before commencement of the claim under this Section, files
23 an action to release such funding against the responsible party
24 withholding such funds or allotments.”

1 **Section 16. Standing to Sue.** A new §12108.1 is hereby *added* to 7
2 **GCA to read:**

3 **“§12108.1. Public School Student: Standing to Sue.**

4 (a) A public school student shall have a claim and standing to sue
5 the government of Guam and any officer of the Executive Branch of the
6 government of Guam in his official capacity only for the purpose of
7 enjoining such officer from failing to provide an adequate public
8 education to that public school student but *not* for money damages.

9 (b) No action shall lie under this Section until thirty (30) days,
10 Saturdays, Sundays, and holiday excepted after notice of the claim has
11 been filed in the manner required by 5 GCA §§ 6101, 6103(b), (c) and (d),
12 6201, 6202, 6205 and 6207 with the Attorney General and the head of the
13 department or agency against which the claim is to be made.”

14 **Section 17. Injunctions.** 7 GCA §20302 is hereby *amended* to read:

15 **“§20302. When Injunction May or May Not Be Granted.** An
16 injunction may be granted in the following cases:

17 1. When it appears by the complaint that the plaintiff is entitled to
18 the relief demanded, and such relief, or any part thereof, consists in
19 restraining the commission or continuance of the act complained of,
20 either for a limited period or perpetually;

21 2. When it appears by the complaint or affidavit that the
22 commission or continuance of some act during the litigation would
23 produce waste, or great or irreparable injury, to a party to the action;

24 3. When it appears during the litigation that a party to the action is
25 doing, or threatens, or is about to do, or is procuring or suffering to be

1 done, some act in violation of the rights of another party to the action
2 respecting the subject of the action, and tending to render the judgment
3 ineffectual;

4 4. When pecuniary compensation would not afford adequate
5 relief;

6 5. Where it would be extremely difficult to ascertain the amount of
7 compensation which would afford adequate relief;

8 6. Where the restraint is necessary to prevent a multiplicity of
9 judicial proceedings;

10 7. Where the obligation arises from a trust.

11 8. Against any officer of the Executive Branch of the government
12 of Guam in his official capacity for the purpose of enjoining such officer
13 from failing to take such action as is necessary to provide an adequate
14 public education to a public school student.

15 An injunction cannot be granted:

16 1. To stay a judicial proceeding pending at the commencement
17 of the action in which the injunction is demanded, unless such
18 restraint is necessary to prevent a multiplicity of such
19 proceedings;

20 2. To stay proceedings in a court of the United States;

21 3. To stay proceedings in any state of the United States upon a
22 judgment of a court of that state;

23 4. To prevent the execution of a public law by officers of the law
24 for the public benefit;

- 1 5. To prevent the breach of a contract (other than a contract in
2 writing for the rendition or furnishing of personal service
3 from one to another where the minimum compensation for
4 such service is at the rate of *not less than* Three Thousand
5 Dollars (\$3,000.00) per annum, and where the promised
6 service is of a special, unique, unusual, extra-ordinary, or
7 intellectual character which gives it peculiar value the loss of
8 which cannot be reasonably or adequately compensated in
9 damages in an action at law) the performance of which would
10 not be specifically enforced; provided, however, that an
11 injunction may be granted to prevent the breach of a contract
12 entered into between any nonprofit cooperative corporation
13 or association and a member or stockholder thereof, in respect
14 to any provision regarding the sale or delivery to the
15 corporation or association of the products produced or
16 acquired by such member or stockholder;
- 17 6. To prevent the exercise of a public or private office, in a lawful
18 manner, by the person in possession;
- 19 7. To prevent an executive act or action by an authorized person;
- 20 8. Where a condition upon which a claim made pursuant to 7
21 GCA §12108.1(a) was based has been corrected;
- 22 9. Where another action based on the same claim arising under 7
23 GCA §12108.1(a) pends before the court."

1 **Section 18. Attorney’s fees. A new Section 26603.1 is hereby *added* to**
2 **7 GCA to read:**

3 “§26603.1. In any action or proceeding to enforce a provision of the
4 Every Child is Entitled to an Adequate Public Education Act, the court,
5 in its discretion, may allow the prevailing party reasonable attorney’s
6 fee as part of the costs.”

7 **Section 19. Minors May Sue. §1116 of 19 GCA is amended to read:**

8 “§1116. Minors May Sue. (a) Except as otherwise provided by
9 Subsection (b), a minor may enforce his rights by civil action or other
10 legal proceedings, in the same manner as a person of full age, except
11 that a guardian must conduct the same.

12 (b) A parent or a legal guardian of a public school student may
13 conduct a civil action for injunctive relief, mandate, prohibition or other
14 legal remedy but not money damages on behalf of the public school
15 student to secure or maintain the public school student’s right to an
16 adequate public education.”

17 **Section 20. Duties of the Superintendent. 17 GCA §3103 (j) is hereby**
18 ***amended* to read:**

19 “(j) to perform other duties as may be required by public law to
20 provide an adequate public educational system; and”

21 **Section 21. Duties and Responsibilities of the Guam Education**
22 **Policy Board. 17 GCA §3112(a) (14) is hereby *amended* to read:**

23 “(14) perform other duties and responsibilities as required by
24 public law to provide an adequate public educational system; and”

1 **Section 22. Construction with Other Laws.** A new §3210 is hereby
2 *added* to 17 GCA to read:

3 “§3210. **Construction with Other Laws.** Insofar as the provisions
4 of the **Every Child is Entitled to an Adequate Public Education Act** are
5 inconsistent with the provisions of any other law, the provisions of this
6 Act shall be controlling; and in particular but not by way of limitation,
7 except as may be provided in this Act, no provision of any law, shall be
8 applicable to the government of Guam with respect to the provisions of
9 the Adequate Public Education Act unless *I Liheslatura* (the Legislature)
10 shall specifically so state.”

11 **Section 23. Transitional provisions and effective dates.**

Effective Dates
These Sections of this Act shall be effective as set out in tabular form below:
§§ 5, 6, 7, 8, 9, 13, and 25 shall be effective October 1, 2005.
§§ 14, 15, 16, 17, 18, and 19 shall be effective October 1, 2007.”

12 **Section 24. Every child is entitled to an Adequate Public Education.**
13 A new §15136 is hereby *added* to 20 GCA part 4 to read:

14 “§15136. Every Child is Entitled to an Adequate Public
15 Education.”

16 **Section 25. Health and Safety.** The Amendments made in this Act to
17 the statute regarding Management of Allotments (5 GCA §1303) or the statute ✓
18 regarding Program Execution (5 GCA §4109) shall *not* be interpreted to allow
19 the BBMR or DOA to lessen or withhold the allocation of appropriations for
20 the delivery of healthcare and public safety.

Frank Kelly
5/19/05
5/20/05

3/11
5/20/05

**MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN
2005 (FIRST) Regular Session**

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Substitute by the
Committee on Education &
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and amended on the floor

R. Klitzkie
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- 15 Section 15. Adds new section 26603.1 to 7 GCA, Attorney's fees.
- 16 Section 16. Amends §1116 of 19 GCA, Minors May Sue.

Handwritten notes and stamps at the bottom of the page.

P.1

I MINA'BENTE OCHO NA LIHESLATURAN GUAHAN

**FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)**

Senator Proposing Amendment L. Leon Guerrero

Amend Title of Bill to read:

An Act To Add New Items 11, 12, 13, And 14, To 1 GCA §715; To Amend 5 GCA §1302; To Amend 5 GCA §1303; To Amend 5GCA §3101; To Amend 5 GCA §3107; To Amend GCA §4109; To Amend 5 GCA §22203; To Add New §1116 To 19 GCA; To Add New §7116 To 7 GCA; To Amend §11307 Of 7 GCA; To Add New §12108.1 To 7 GCA; To Add New §26603.1 To 7 GCA; To Amend 17 GCA § 3103 (J); To Amend 17 GCA §3112(A) 14; To Add New §3210 To 17 GCA; To Add New §15136 To 20 GCA Part 4; Relative to the Duties and Responsibilities of BBMR, the Management of Allotments, the Department of Administration, Program Execution, the Duties of the Director of Administration, Limitations of Actions, Standing to Sue, Injunctions, Attorneys Fees, Suit by Minors, the Duties of the Superintendent and the GEPB; And To Enact Every Child Is Entitled To An Adequate Public Education Act.

(Below only for Clerk of Legislature's use and processing)

Date 5/20, 2005

Floor Amendment No. 7 of a total of changes on above Bill.

Votes For Amendment: Votes Against Amendment:

AMENDMENT PASSED: ✓

Amendment Failed:

Amendment Withdrawn:

APPROVED AS TO FORM PASSED


AUTHOR OF AMENDMENT

Concur (initial)


Clerk of Legislature

Speaker

 Ass't. Amend. Clerk
 Engrossment Staff

1 Section 17. Amends 17 GCA § 3103 (j), Duties of the Superintendent.
2 Section 18. Amends 17 GCA §3112(a) 14, Duties and Responsibilities of the Guam
3 Education Policy Board.
4 Section 19. Adds new §3210 to 17 GCA, Construction with Other Laws.
5 Section 20. Transitional provisions and effective dates.
6 Section 21. Adds new §15136 is added to 20 GCA part 4, Every child entitled to an
7 adequate public education.
8

9 **Section 1. Short title. This act may be cited as the Every Child is Entitled to**
10 **an Adequate Public Education Act.**

11 **Section 2. Declaration of Policy.** *I Liheslaturan* declares that the education of
12 our children is the top priority of our government. The resources of the government must
13 first be directed toward providing an adequate public educational system.

14 **Section 3. Statement of legislative findings and purpose.** The legislature finds
15 that the Organic Act requires the government of Guam to provide an adequate system of
16 public education. The Organic Act Bill of Rights mandates compulsory education for
17 children between six (6) and sixteen (16). The interplay of these provisions creates a right
18 to an adequate public education for children that is analogous to a constitutional civil
19 right.

20 This act recognizes that civil right and gives school children access to the courts
21 to vindicate that right with the parent of a child empowered to conduct litigation on
22 behalf of the child.

23 While the term adequate public education is not easily defined, the legislature
24 finds that a working definition dealing with the physical aspects of the educational
25 process is necessary to secure and protect at least the minimal right of children to an
26 adequate education and to the end has defined that term.

27 Since the Organic Act assigns the responsibility of providing an adequate public
28 educational system to the entire government and all government officials, the scope of the
29 act is government-wide.

30 **Section 4. Definitions. New items 11, 12, 13, and 14 are added to 1 GCA §715**
31 **to read:**

32 “11. *Adequate public educational system* means a system of public schools that
33 provides an adequate public education to public school students.
34

1 12. Adequate public education means public schools which at the minimum
 2 provide:
 3 a) a certified teacher for every class in a ratio established by relevant
 4 collective bargaining agreements,
 5 b) certified professional administrators,
 6 c) certified guidance counselors,
 7 d) certified school health counselors,
 8 e) ~~certified~~ ^{certified health professionals} air conditioned or properly ventilated classrooms in which the sensible air
 9 temperature is no greater than 78° F.,
 10 f) potable water sufficient to provide each student a daily ration of drinking
 11 and washing water,
 12 g) a reliable supply of electricity,
 13 h) proper sanitation to include flushable toilets, clean restrooms, dining areas
 14 and classrooms,
 15 i) adopted and required textbooks and workbooks issued to each public
 16 school student for the classes in which he or she is enrolled,
 17 j) libraries, which meet the standards of the American Association of School
 18 Librarians, at each school, operated by certified librarians,
 19 k) a healthful, safe, sanitary learning environment,
 20 l) at least 180 instructional days each school year with school years ending
 21 no later than 30 days following the end of the calendared school year,
 22 m) regular, timely ^{school bus} transportation to and from the school for his attendance
 23 area as established by 17 GCA §6102 for every child in accordance with
 24 policies adopted by the Education Policy Board.

25 13. In 12., above, *certified* means that a person holds at least the first level of
 26 professional certificate issued in accordance with standards at least as stringent as those
 27 in place on the day this section is effective, for the position he or she holds.

28 14. *Public school* means a facility established, maintained or operated pursuant
 29 §29(b) of the Organic Act, as amended.

strong
 12

strong
 22A 11
 laly
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 laly
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 laly
 27

5/20

5/20

Passed FA No. 5
Date: 5/20 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1

Senator Proposing Amendment: Judith T. Won Pat

Please describe proposed amendment, including where change to occur: Page 3 line 22 after the word timely. Add the following: school bus

(Below only for Clerk of Legislature's use and processing)

Date: 5/20/05
Floor Amendment No. 11 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED:

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

JT
AUTHOR OF AMENDMENT

Concur (initial)

JWS
Clerk of Legislature

Speaker

Ass't Amend. Clerk
Engrossment Staff

Passed FA No. 6
Date: 5/20 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)

P. 3
Line 8
Senator Proposing Amendment J. Won Pat

Add the following as a new subitem (e) to item 12 (and renumber the other subitems) of Section 4 of the Bill to read:

“(e) certified allied health professionals,”

Date 5/20/ 2005 (Below only for Clerk of Legislature's use and processing)

Floor Amendment No. 12 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

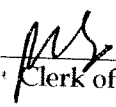
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT

Concur (initial)



Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

1 15. *Public school student* means a child who is required to attend school by
2 Section 1421b. (r) of the Organic Act or 17 GCA §6102 who is enrolled in a public
3 school and has not been expelled.”

4 **Section 5. Duties and Responsibilities of BBMR. 5 GCA §1302 is**
5 **amended to read:**

6 “§ 1302. Duties and Responsibilities of the Bureau.

7 In addition to the duties and responsibilities prescribed for the Bureau by any
8 other provision of law, the Bureau shall also have the following duties and
9 responsibilities:

10 (a) Conduct necessary operational planning and management research and studies
11 to ensure that effective planning and management methods are utilized by departments
12 and agencies of the government of Guam and otherwise to ensure that each public school
13 student receives an adequate public education;

14 (b) Subject to the approval of the Governor, prescribe a budget calendar for the
15 guidance of all executive agencies and a system of quarterly allotments to insure that
16 appropriations and non-appropriated funds are not exhausted beyond the fiscal period for
17 which such appropriations and funds are made available; provided that such budget
18 calendar and quarterly allotments are calculated so as to ensure that every public school
19 student receives an adequate public education; ^{proportionately} ~~and~~

20 (c) To institute a system of form control; and

21 (d) Perform such other duties and responsibilities as may be prescribed by the
22 Governor or by law.”

23 **Section 6. Management of Allotments. 5 GCA §1303 is amended to read:**

24 “§ 1303. Management of Allotments.

25 In the release of monthly or quarterly allotments by the Bureau of Budget &
26 Management Research from appropriation acts, the Director thereof shall base such
27 allotments on anticipated cash receipts so that the obligations incurred pursuant to such
28 release of periodic allotments shall have sufficient cash for their payment., provided that
29 sufficient cash shall always be released to the Guam Public School System to provide an
30 adequate public education to every public school student.” ~~and~~

MINA'BENTE OCHO NA LIHESLATURAN GU€ HAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (LS)

SMC

Edward J.B. Calvo
Senator Proposing Amendment

(Below for Senator to Complete)

Please describe proposed amendment, including where change to occur:

FA 17

1. In page 4 line 18 after the word "are" insert the word "proportionately."

W/Drawn Amend Section 6 to read:

"Section 6. 5 GCA §1303 is amended to read:

~~"§1303. Management of Allotments. In the release of monthly or quarterly allotments by the Bureau of Budget & Management Research from appropriation acts, the Director thereof shall base such allotments on anticipated cash receipts so that the obligations incurred pursuant to such release of periodic allotments shall have sufficient cash for their payment; provided that allotments shall always be released to the Guam Public School System in fulfillment of the criterion of 1 GCA §715 and shall not be interpreted to allow the Bureau of Budget & Management Research or the Department of Administration to reduce or withhold allotments for the delivery of healthcare and public safety services of the Guam Memorial Hospital, Guam Police Department, Department of Corrections, Guam Fire Department, Department of Public Health and Social Services, the Department of Mental Health and Substance Abuse, University of Guam and the Guam Community College, to provide an adequate public education to every public school student."~~

Date May 20, 2005.

Floor Amendment No. 17 total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED:

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED
SENATOR EDWARD J.B. CALVO
AUTHOR OF AMENDMENT

Concur (initial)



Clerk of Legislature

Speaker

____ Ass't Amend. Clerk

____ Engrossment Staff

educator FA18

Section 7, Section 8 educator

Section 7. Department of Administration. 5GCA §3101 is amended to read:

“§ 3101. Department of Administration.

There is within the Executive Branch of the government of Guam a Department of Administration. The Director of Administration is the head of the Department of Administration. The Director of Administration is appointed by the Governor with the advice and consent of the Legislature. It is the duty of the Director of Administration to support an adequate public educational system as required by Section 29(b) of the

Organic Act, as amended.”

educator FA19

Section 8. Guam Public School System. 5 GCA §3107 is amended to read:

“§ 3107. ~~Department of Education.~~ Guam Public School System.

There is within the Executive Branch of the government of Guam a ~~Department of Education.~~ Guam Public School System. ~~The Director of Education is head of the Department of Education. The Director of Education is appointed by the Territorial Board of Education with the approval of the Governor and with the advice and consent of the Legislature.~~ It is the mission of the Guam Public School System and the duty of all public officials of the executive branch of the government of Guam to provide an adequate public educational system as required by Section 29(b) of the Organic Act, as amended, and to that end provide an adequate public education for all public school students as those terms are defined at 1 GCA §715; FA ”

Section 9. Program Execution. 5 GCA §4109 is amended to read:

“§ 4109. Program Execution.

(a) Except as limited by policy decisions of the Governor, appropriations by the Legislature, and other provisions of law, the territorial agencies shall have full authority for administering their program service assignments, and shall be responsible for their proper management-, provided that the governor’s policy decisions shall not limit the authority of the Guam Public School System.

(b) Each territorial agency, (other than the Legislature and the courts), shall prepare an annual plan for the operation of each of its assigned programs. The operations plan shall be prepared in the form and content and be transmitted on the date prescribed by the Bureau of Budget and Management Research.

(c) The Bureau of Budget and Management Research shall:

Legislative FA19

5/20/05
5/20/05

I MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN

**FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)**

p. 5, line 19

Senator Proposing Amendment L. Leon Guerrero

Add the following to the end of 5 GCA 3107 in Section 8 of the Bill to read:

“ . . . ; and effectuate an increase in the percentage of students at Level 3, which demonstrates solid academic performance as measured by SAT 10, by at least five percent (5%) each grade level per year until the Guam Education Policy Board - adopted goal of 90% at Level 3 in ten years is reached. ”

(Below only for Clerk of Legislature's use and processing)

Date 5/20, 2005

Floor Amendment No. 9 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

L. Leon Guerrero
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

p. 5, line 1

Passed FA No. 11
Date: 5/20 Time: _____

MINA'BENTE OCHO NA LIHESLATURAN GU€ HAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (LS)

gml

Edward J.B. Calvo
Senator Proposing Amendment

(Below for Senator to Complete)

Please describe proposed amendment, including where change to occur:

Add a new Section 7 and renumerate all subsequent sections.

"Section 7. A new item (o) is added to §3103 of Article 1 of Chapter 3 of Title 17 of the Guam Code Annotated.

(o) **Adequate Public Education Reporting Requirements.** The Superintendent of the Department of Education shall submit a monthly report of all funds available to the Department, whether or not their resources require appropriations by *l Liheslaturan Guåhan*. The report shall also contain a detailed accounting of all expenditures of funds relating such expenditures to the criteria established in 1 GCA §715. The report is to be completed no later than fifteen (15) calendar days after the end of each month and shall be certified by the Superintendent acknowledging compliance with 1 GCA §715 and in meeting with the objectives of §3125 of this Chapter. The report shall be submitted to the Guam Education Policy Board and *l Maga'lahaen Guåhan*. Failure to comply with this section and the criteria of an adequate public education shall enjoin the Superintendent in civil liability as provided in 7GCA §20302."

*FA 18a
ray tenorio*

*Spk 08
GL*

RK 18b subject to FA 18b

Date May 20, 2005.

Floor Amendment No. 18, a, b of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED
SENATOR EDWARD J.B. CALVO
AUTHOR OF AMENDMENT

Concur (initial)

Clerk of Legislature

Speaker

Ass't Amend. Clerk

Engrossment Staff

MINA'BENTE OCHO NA LIHESLATURAN GUĒ HAN

FLOOR AMENDMENTS/CHANGES

Bill No. 1 (LS)

RAY TENORIO
Edward J.B. Calvo

gmc

Senator Proposing Amendment

(Below for Senator to Complete)

Please describe proposed amendment, including where change to occur:

Add a new Section 7 and renumerate all subsequent sections.

"Section 7. A new item (o) is added to §3103 of Article 1 of Chapter 3 of Title 17 of the Guam Code Annotated.

- (o) **Adequate Public Education Reporting Requirements.** The Superintendent of the Department of Education shall submit a monthly report of all funds available to the Department, whether or not their resources require appropriations by *1 Liheslaturan Guåhan*. The report shall also contain a detailed accounting of all expenditures of funds relating such expenditures to the criteria established in 1 GCA §715. The report is to be completed no later than fifteen (15) calendar days after the end of each month and shall be certified by the Superintendent acknowledging compliance with 1 GCA §715 and in meeting with the objectives of §3125 of this Chapter. The report shall be submitted to the Guam Education Policy Board *and 1 Maga'lahaen Guåhan*. Failure to comply with this section and the criteria of an adequate public education shall enjoin the Superintendent in civil liability as provided in 7GCA §20302."

Add the term: ", the Speaker of 1 Liheslaturan Guåhan,"

Date May 20, 2005.

Floor Amendment No. 18, a, k of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

**APPROVED AS TO FORM PASSED
SENATOR EDWARD J.B. CALVO
AUTHOR OF AMENDMENT**

Concur (initial)

Clerk of Legislature

Speaker

Ass't Amend. Clerk

Engrossment Staff

p. 5

Passed FA No. 12
Date: 5/20 Time: _____

MINA'BENTE OCHO NA LIHESLATURAN GUE HAN

FLOOR AMENDMENTS/CHANGES Bill No. 1 (LS)

Edward J.B. Calvo
Senator Proposing Amendment

ERC

(Below for Senator to Complete)

Please describe proposed amendment, including where change to occur:

Add a new Section 8 and renumerate all subsequent sections.

"Section 8. A new §3218 of Article 2 of Chapter 3 of Title 17 of the Guam Code Annotated.

§3218. **Responsibility of Accountable Officers.** The provisions contained within Chapter 14 of Title 4 GCA shall apply to any employee of the Department of Education, who by reason of the person's employment, is considered an accountable officer, and it shall be unlawful for that employee to fraudulently, wastefully or improperly disburse funds or authorize the expenditure of funds not in compliance with the criterion established within 1 GCA §715 or in meeting with the objectives of 17 GCA §3125 in providing an adequate public education to every public school student."

Date May 20, 2005.

Floor Amendment No. 19 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED
SENATOR EDWARD J.B. CALVO
AUTHOR OF AMENDMENT

Concur (initial)

Clerk of Legislature

Speaker

Ass't Amend. Clerk

Engrossment Staff

1 (1) Review each operations plan to determine that it is consistent with the
2 policy decisions of the Governor and appropriations by the Legislature, that it reflects
3 proper planning and efficient management methods, that appropriations have been made
4 for the planned purpose and will not be exhausted before the end of the fiscal year.

5 (2) Approve the operations plan if satisfied that it meets the requirements
6 under Paragraph (1). Otherwise the Bureau of Budget and Management Research shall
7 require revision of the operations plan in whole or in part.

8 (3) Modify or withhold the planned expenditures at any time during the
9 appropriation period if the Bureau of Budget and Management Research finds that such
10 expenditures are greater than those necessary to execute the programs at the level
11 authorized by the Governor and the Legislature, or that the receipts and surpluses will be
12 insufficient to meet the authorized expenditure levels, provided that no planned
13 expenditures necessary to provide every public school student an adequate public
14 education shall be modified or withheld.

15 (d) No territorial agency (except the Legislature and the courts), may increase the
16 salaries of its employees, employ additional employees or expend money or incur any
17 obligations except in accordance with law and with a properly approved operations plan.

18 (e) The Bureau of Budget and Management Research shall report quarterly to the
19 Governor and the Legislature on the operations of each territorial agency, relating actual
20 accomplishments to those planned, and modifying, if necessary, the operations plan of
21 any agency for the balance of the fiscal year.”

22 ¹²
23 **Section 10. Duties of Director of Administration. 5 GCA §22203 is amended
to read:**

24 “§ 22203. Duties of Director.

25 The Director shall, with due regard for the function of the specific agencies
26 concerned, organize and operate the accounting system on a fund basis with a self-
27 balancing set of accounts, recording cash and/or other resources together with all related
28 liabilities, obligations, reserves and equities which are segregated for the purpose of
29 carrying on specific activities or attaining certain objectives; establish an accounting
30 system which provides budgetary control over general governmental revenues and
31 expenditures; determine fairly and with full disclosure the financial position and results

1 of financial operations; show that all applicable legal provisions have been complied
2 with; establish various types of funds as are necessary and as required by law; shall
3 account in the General Fund all financial transactions not properly accounted for in
4 another fund; shall account in the Special Revenue Funds all proceeds of specific revenue
5 sources or to finance specific activities as required by law; shall account in the capital
6 improvements funds all receipts and disbursements of monies used for the acquisition of
7 capital facilities; shall account in other funds consistent with legal and operating
8 requirements; classify accounts to insure compliance with budgetary provisions; provide
9 a basis for financial and administrative control, furnish data required for financial
10 statements and provide a basis for comparison with similar data for other periods, etc.;
11 establish standards, procedures and techniques for a central accounting system; conduct a
12 continuing review of all accounting operations to effect improvements in accordance with
13 current accounting practices; establish standards for the preparation of financial
14 statements and other reports as are necessary; maintain all Federal grant award funds
15 including maintenance of encumbrance and expenditure; and obtain reports from all
16 departments and agencies as are required for the effective administration of a central
17 accounting system and take all actions necessary to ensure that an adequate public
18 education is available to every public school student."

*B/CW
FA 1/2/18
R/*

Section 4.13

2/14

Section 11 Expedited Schedule of Discovery. A new §7116 is added to

7 GCA to read:

“§ 7116. Expedited Schedule of Discovery.

At the first hearing before the Superior Court in any action brought under this Chapter, the court may order an expedited schedule of discovery and pleading, and an expedited schedule and trial date for the case, if requested by any party.”

Calg FA 8

3/15
Section 12. Limitation of Actions. §11311 of 7 GCA is amended to read:

“ § 11311. Within Six (6) Months. An action against an officer, or officer de facto:

(1) to recover any goods, wares, merchandise or other property seized by such officer in his official capacity as tax collector, or to recover the price or value of any goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention, sale of or injury to any goods, wares, merchandise or other personal

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (LS)

Sen. B J Cruz

Senator Proposing Amendment

A. Add new Section 11 of the Bill to read as follows:

*Am FA 1a
ref FA 1b*

FA 1a, b
"Section 11. I Liheslaturan Guåhan shall annually appropriated from the General Fund to the Guam Public School System all amounts necessary to provide an adequate public educational system as required by Section 29(b) of the Organic Act as amended and to that end provide an adequate Public Education for all Public School students as those terms are defined at 1GCA §715."

B. Renumber the Subsequent Sections.

Date 5/19, 2005

Floor Amendment No. 1, ab, of a total of changes on above Bill.

Votes For Amendment: Votes Against Amendment:

AMENDMENT PASSED:

Amendment Failed:

Amendment Withdrawn:

APPROVED AS TO FORM PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

Passed FA No. 1 A/B
Date: 5/19 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 1

ARU

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

mf
FA 1a b
On FA 1, after "General Fund" insert "or any other fund as appropriate ~~for desired~~ by the Guam Legislature" as determined

(Below only for Clerk of Legislature's use and processing))

Date 5/19, 2005

Floor Amendment No. FA 1a b of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

C

AUTHOR OF AMENDMENT

Concur (initial)

ms
Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

1 property seized, or for damages done to any person or property in making any such
2 seizure;

3 (2) to recover stock sold for a delinquent assessment, as provided in [339 of the
4 Civil Code];

5 (3) to set aside or invalidate any action taken or performed by a majority of the
6 trustees of any corporation heretofore or hereafter dissolved by operation of law,

including the revivor of any such corporation.

7 (4) to bring an action upon a claim by a public school student for denial of an
8 adequate public education.”

laly FA 8

9
10 **Section 13. Standing to Sue. A new §12108.1 is added to 7 GCA to read:**

11 “§12108.1. Public school student: Standing to sue.

12 (a) A public school student shall have a claim and standing to sue the
13 government of Guam and any officer of the Executive Branch of the
14 government of Guam in his official capacity only for the purpose of
15 enjoining such officer from failing to provide an adequate public
16 education to that public school student but not for money damages.

17 (b) No action shall lie under this section until thirty ~~working~~ ^{days} after notice of
18 the claim has been filed in the manner required by 5GCA §§ 6101,
19 6103(b), (c) and (d), 6201, 6202, 6205 and 6207 with the Attorney
20 General and the head of the department or agency against which the
21 claim is to be made.”

jtwp FA 11

22 **Section 14. Injunctions. 7GCA § 20302 is amended to read:**

23 “§ 20302. When Injunction May or May Not Be Granted.

24 An injunction may be granted in the following cases:

25 1. When it appears by the complaint that the plaintiff is entitled to the relief
26 demanded, and such relief, or any part thereof, consists in restraining the commission or
27 continuance of the act complained of, either for a limited period or perpetually;

28 2. When it appears by the complaint or affidavit that the commission or
29 continuance of some act during the litigation would produce waste, or great or irreparable
30 injury, to a party to the action;

laly FA 10

5/20/05

Passed FA No. 3
Date: 5/20 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES Bill No. 1

Senator Proposing Amendment: LLG

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Insert the following on Section ¹³~~12~~ right after item 4:

"The lack of funding or failure to release allotments shall not constitute a defense to claims under this section unless the named respondent, before commencement of the claim under this section, filed an action to release such funding against the responsible party withholding such funds or allotments."

(Below only for Clerk of Legislature's use and processing)

Date: 5/20/05
Floor Amendment No. 8 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED:

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur (initial)

p. 7 line 25 - (Section 12) original
p. 8 line 8

5/20/05
[Handwritten notes]

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)

Senator Proposing Amendment J. Won Pat

RK FA 14a

Amend 12108.1(b) in Section 13 of the Bill (page 8, line 17) as follows: *Saturday, Sunday, holidays*
“(b) No action shall lie under this section until thirty ~~working~~ *days* after notice of” *Accepted*

(Below only for Clerk of Legislature's use and processing)

Date 5/20, 2005

Floor Amendment No. 14, 14a of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT

Concur (initial)


Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

1 3. When it appears during the litigation that a party to the action is doing, or
2 threatens, or is about to do, or is procuring or suffering to be done, some act in violation
3 of the rights of another party to the action respecting the subject of the action, and
4 tending to render the judgment ineffectual;

5 4. When pecuniary compensation would not afford adequate relief;

6 5. Where it would be extremely difficult to ascertain the amount of compensation
7 which would afford adequate relief;

8 6. Where the restraint is necessary to prevent a multiplicity of judicial
9 proceedings;

10 7. Where the obligation arises from a trust.

11 8. Against any officer of the Executive Branch of the government of Guam in his
12 official capacity for the purpose of enjoining such officer from failing to take such action
13 as is necessary to provide an adequate public education to a public school student .

14 An injunction cannot be granted:

15 1. To stay a judicial proceeding pending at the commencement of the action in
16 which the injunction is demanded, unless such restraint is necessary to prevent a
17 multiplicity of such proceedings;

18 2. To stay proceedings in a court of the United States;

19 3. To stay proceedings in any state of the United States upon a judgment of a
20 court of that state;

21 4. To prevent the execution of a public law by officers of the law for the public
22 benefit;

23 5. To prevent the breach of a contract (other than a contract in writing for the
24 rendition or furnishing of personal service from one to another where the minimum
25 compensation for such service is at the rate of not less than three thousand dollars
26 (\$3,000.00) per annum, and where the promised service is of a special, unique, unusual,
27 extra-ordinary, or intellectual character which gives it peculiar value the loss of which
28 cannot be reasonably or adequately compensated in damages in an action at law) the
29 performance of which would not he specifically enforced; provided, however, that an
30 injunction may be granted to prevent the breach of a contract entered into between any
31 nonprofit cooperative corporation or association and a member or stockholder thereof, in

1 respect to any provision regarding the sale or delivery to the corporation or association of
2 the products produced or acquired by such member or stockholder;

3 6. To prevent the exercise of a public or private office, in a lawful manner, by the
4 person in possession;

5 7. To prevent an executive act or action by an authorized person.

6 8. Where a condition upon which a claim made pursuant to 7 GCA §12108.1(a)
7 was based has been corrected.

8 9. Where another action based on the same claim arising under 7 GCA
9 §12108.1(a) pends before the court.”

10 **Section 15. Attorney's fees. A new section 26603.1 is added to 7 GCA to read:**

11 “§26603.1. In any action or proceeding to enforce a provision of this Act, the
12 court, in its discretion, may allow the prevailing party reasonable attorney's fee as part of
13 the costs.”

14 **Section 16. Minors May Sue. §1116 of 19 GCA is amended to read:**

15 “§ 1116. Minors May Sue.

16 (a) Except as otherwise provided by subsection (b) A minor may enforce his
17 rights by civil action or other legal proceedings, in the same manner as a person of full
18 age, except that a guardian must conduct the same.

19 (b) A parent ^{or a legal guardian} of a public school student may conduct a civil action for injunctive relief,
20 mandate, prohibition or other legal remedy but not money damages on behalf of the
21 public school student to secure or maintain the public school student's right to an
22 adequate public education.”

23 **Section 17. Duties of the Superintendent. 17 GCA § 3103 (j) is amended to**

24 **read:**

25 “(j) to perform other duties as may be required by public law to provide an
26 adequate public educational system; and”

27 **Section 18. ¹⁹⁻²¹ Duties and Responsibilities of the Guam Education Policy Board.**

28 **17 GCA §3112(a) 14 is amended to read:**

29 “(14) perform other duties and responsibilities as required by public law to
30 provide an adequate public educational system; and”

5/20/08

jal
FA15
Mox-gman

Passed FA No. 7
Date: 5/20 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES Bill No. 1

Senator Proposing Amendment: Judith T. Won Pat

Please describe proposed amendment, including where change to occur: Page 10 line 19 after parent. Add the following: or legal guardian

(Below only for Clerk of Legislature's use and processing)
Date: 5/20/05
Floor Amendment No. 13 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED:

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

JT
AUTHOR OF AMENDMENT

Concur (initial)

WSP
Clerk of Legislature

Speaker

Asst. Amend. Clerk
Engrossment Staff

20 22

1 Section 19. Construction with Other Laws. A new §3210 is added to 17 GCA
2 to read:

3 “§3210. Construction with Other Laws.

4 Insofar as the provisions of the **Every Child is Entitled to an Adequate Public**
5 **Education Act** are inconsistent with the provisions of any other law, the provisions of
6 this Act shall be controlling; and in particular but not by way of limitation, except as may
7 be provided in this Act, no provision of any law, shall be applicable to the government of
8 Guam with respect to the provisions of the Adequate Public Education Act unless the
9 Legislature shall specifically so state.”

revised
FA 22

10 Section 21. Transitional provisions and effective dates.

Effective Dates
Sections of this act shall be effective as set out in tabular form below:
§10 shall be effective thirty (30) days after enactment.
§§ 5, 6, 7, 8 and 9 shall be effective October 1, 2005.
§§ 11,12,13, 14, 15 and 16 shall be effective October 1, 2006.

11 Section 22. Every child entitled to an adequate public education. A new

22 24

12 §15136 is added to 20 GCA part 4 to read:

13 “§15136. Every child is entitled to an adequate public education.”

fla 15
FA 16
M

Section 23 25

~~Section~~

FA 2
rjr 8.

5/20/05

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

**FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)**

*P.11
line 15*

Senator Proposing Amendment F. Aguon

Add a new Section to the Bill to read:

25
Section ~~23~~. The Amendments made in this Act to the Management of Allotments (5 GCA 1303) or the Program Execution (5 GCA 4109) shall not be interpreted to allow the BBMR or DOA to lessen or withhold the allocation of ~~appropriated~~ ^{resources} for the delivery of healthcare and public safety.

fla

Resources
tions
appropriations
J.R.

(Below only for Clerk of Legislature's use and processing)

Date 5/20, 2005

Floor Amendment No. 16 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED:

Amendment Failed: _____

Amendment Withdrawn: _____

~~APPROVED AS TO FORM PASSED~~

[Signature]
AUTHOR OF AMENDMENT
Concur (initial)

[Signature]
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

MINA'BENTE OCHO NA LIHESLATURAN GU€ HAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1 (LS)

Edward J.B. Calvo
Senator Proposing Amendment

(Below for Senator to Complete)
Please describe proposed amendment, including where change to occur:

Amend Section ~~20~~ to read:

~~“Section 20. Transitional provisions and effective dates.~~

Effective Dates
Sections of this act shall be effective as set out in tabular form below:
§5, 6, 7, 8, 9, 10, 11 and 12 shall be effective October 1, 2005.
§13, 14, 15, 16, 17 and 18 shall be effective October 1, 2007.”

FA 20a
fa - allow Leg Counsel to renumber sections accordingly

Date May 20, 2005.

Floor Amendment No. 20a of a total of 20a changes on above Bill.
Votes For Amendment: ✓ Votes Against Amendment: _____
AMENDMENT PASSED: _____

20a laly
8/1 laly
1 2 3 4 5 6

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED
SENATOR EDWARD J.B. CALVO
AUTHOR OF AMENDMENT

[Signature]
Concur (initial)

[Signature]

Clerk of Legislature

Ass't Amend. Clerk

Engrossment Staff

Speaker

laly - 20a failed on effective dates.

Passed

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2005 (FIRST) Regular Session

Date: 5/20/05

VOTING SHEET

Bill No. _____

Resolution No. _____

Question: Calvo Floor Amendment #20, Effective Dates

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eddie J.B.	✓				
CRUZ, Benjamin J.F.		✓			
CRUZ, Mike (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.					✓
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.		✓			
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.		✓			
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.		✓			

TOTAL

10 4 _____ _____ 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

Passed FA No. _____

Date: 19 May 2005 Time: _____

I MINA'BENTE OCHO NA LIHESLATURAN GUAHAN
FLOOR AMENDMENTS/CHANGES

Bill No. 01

Senator Proposing Amendment: RJR

Describe proposed amendment and/or change here:

Adds a new Section to read:

"Section . Paragraph (b) of Item 13 of the GTA Privatization Rules as enacted in Section 2 of Public Law 26-70 is repealed and reenacted to read:

(b) GTA Privatization Proceeds Fund. There is created a Guam Telephone Authority Privatization Proceeds Fund ('GTA Privatization Proceeds Fund'). Notwithstanding any other provision of law, no funds received from a bidder as cost reimbursement or evaluation fee, or from the successful offeror as up front payment or compensation for the purchase of GTA, or otherwise received from any entity relative to the sale, privatization or other disposition of the assets of GTA, shall be deposited into the General Fund or any other fund other than the GTA Privatization Proceeds Fund. All funds deposited in the GTA Privatization Proceeds Fund shall be used for the needs of the Department of Education subject to legislative appropriation. No funds therein may be expended without direct appropriation by *I Liheslaturan Guåhan* against such fund."

(Below for Clerk of Legislature's use and processing)

Date: 5/19/05

Floor Amendment No. 2 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

AMENDMENT FAILED: _____

AMENDMENT WITHDRAWN: _____

APPROVED AS TO FORM PASSED

CONCUR (INITIAL)

MS
Clerk of Legislature

Speaker

Ass't Amend. Clerk

Engrossment Staff

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES
Bill No. 1

Senator Proposing Amendment: LLG

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Insert the following on page 3, after line 24:

“(n) an increase in percentage of students at Level 3 which demonstrates solid academic performance as measured by SAT 10 by at least five percent (5%) each grade level per year.”

(Below only for Clerk of Legislature's use and processing)

Date: 5/19/05

Floor Amendment No. 3 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

Amendment Failed: _____
Amendment Withdrawn:

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur (initial)

MB

Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN

**FLOOR AMENDMENTS/CHANGES
Bill No. 1 (EC)**

Senator Proposing Amendment L. Leon Guerrero

(n) an increase in ^{number} ~~percentage~~ of students at Level 3, which demonstrates solid academic performance as measured by SAT 10, by at least five percent (5%) each grade level per year until the Guam Education Policy Board - adopted goal of 90% at Level 3 in ten years is reached.

(Below only for Clerk of Legislature's use and processing))

Date 5/19, 2005

Floor Amendment No. 4 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur (initial)

MS
Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

*ruled by Spkr
Non-germane*

FLOOR AMENDMENTS/CHANGES
Bill No. 1

Senator Proposing Amendment: LLG

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Insert the following on page 4 line 19:

" and further provided that such budget calendar and quarterly allotments are calculated so as to ensure the delivery of healthcare to our people."

(Below only for Clerk of Legislature's use and processing)

Date: 5/19/05
Floor Amendment No. 5 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED: _____

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur (initial)

[Signature]
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

43

Passed FA No. _____

Date: _____ Time: _____

*Public
non-german*

I MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 1

Senator Proposing Amendment: LLG

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Insert the following on page 4 line 30:

“ and further provided that cash shall be released to meet the monthly or quarterly allotments to Mental Health, Public Health, and GMH necessary to provide and deliver health care.”

(Below only for Clerk of Legislature's use and processing)

Date: 5/19/05
Floor Amendment No. 6 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED: _____

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur *(initial)*

PLS
Clerk of Legislature

Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

8 *Non german*

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

p. 8, line 21

**FLOOR AMENDMENTS/CHANGES
Bill No. 1**

Senator Proposing Amendment: LLG

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

Insert a new §12108.2 to ~~the following on~~ Section 13:¹⁴

"Any taxpayer on Guam shall have a claim or standing to sue the government of Guam for failing to provide an adequate education."

(Below only for Clerk of Legislature's use and processing)

Date: 5/20/05
Floor Amendment No. 10 of a total of _____ changes on above Bill.
Votes For Amendment: _____ Votes Against Amendment: _____
AMENDMENT PASSED: _____

Amendment Failed: _____
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur *(initial)*

Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff

p. 10, line 23
kuled
non-germane
improper

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 1

Jesse Anderson Lujan

Senator Proposing Amendment

A new Section 16 is added to Sub Bill 1, and all subsequent sections are renumbered accordingly:

"Section 16. Settlement Authorized. The Superintendent of Education may enter into settlement of any action brought under this Act. The Superintendent of Education is authorized to disburse in the name of the plaintiff a sum equal to the affected student's prorated share of the unexpended portion of the Department's per-student operational appropriations budget, to be used solely to enroll the affected student(s) on-island at another school or approved home school. Such settlements shall include provisions that clearly state that the plaintiff and affected minor student(s) shall remain eligible for successive budgeted funds disbursements in subsequent years through grade 12 of the student, as long as the students remain enrolled, and as long as conditions which gave rise to the original claim, action or proceeding have not been remedied. The Superintendent of Education shall include such sums as are necessary to cover these obligations in his annual budget request."

(Below only for Clerk of Legislature's use and processing)

Date 3/20 2005

Floor Amendment No. 15 a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

AUTHOR OF AMENDMENT

Concur (initial)

pas

Clerk of Legislature

Speaker

Ass't. Amend. Clerk

Engrossment Staff