

MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) REGULAR SESSION

Bill No. 42 (EC)

Introduced by:

Edward J.B. Calvo *EJC*

AN ACT TO AMEND THE COMPOSITION,
RESPONSIBILITIES AND DUTIES OF THE
ACCREDITATION BOARD IN THE REVIEW
AND CERTIFICATION OF PRIVATE POST
SECONDARY INSTITUTIONS BY
REPEALING AND REENACTING §44104 OF
CHAPTER 44 OF TITLE 17 OF THE GUAM
CODE ANNOTATED AND TO APPEND
§44105, §44106 AND §44107 TO CHAPTER 44
OF TITLE 17 OF THE GUAM CODE
ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. It is the intent of *I*
3 *Liheslaturan Guåhan* ensure for a creditable and effective "Accreditation Board"
4 (Board) which licenses and certifies nonpublic post secondary institutions
5 protecting such bona fide institutions and to protect the residents of Guam
6 from fraudulent practices, unfair competition or substandard educational
7 programs. Since the enactment of Public Law 15-44, the Board consisting of
8 the University of Guam, Board of Regents and the Guam Community College,

1 Board of Trustees, have never convened to regulate or provide certification
2 reviews for private Post Secondary Institutions on Guam. The Board needs to
3 be effective and efficient in order to accomplish its purpose. The existing
4 composition of the Board as established would be extremely difficult if not
5 impossible to be effective. There are nine (9) members for the Board of
6 Regents and seven (7) Board of Trustees. All of these members without
7 exception comprises the sixteen (16) member Accreditation Board, too many
8 to ensure any cooperative effort. A minimum of nine (9) members are also
9 needed to comprise a quorum while nine (9) members are needed to
10 determine simple majority vote. Each of these boards represents the interest
11 of the University of Guam and the Guam Community College to be effective
12 as a certification body for private post secondary institutions. Additionally,
13 the memberships on these boards consist of political appointees that do not
14 necessarily render expertise in formulating an opinion or decision towards the
15 technical certification review of post secondary academic accreditation. The
16 Board must compose of members with specific educational qualifications and
17 exposure to Guam's educational landscape.

1 The Accreditation Board has never convened for the purpose of
2 accomplishing its purpose. An obvious reason may be related to the already
3 overwhelming workload of its members. These variables collectively
4 contribute towards the inability of the Board to meet.

5 It is also the intent of *I Liheslaturan Guåhan* to encourage the recognition
6 by tax-supported institutions of work completed and degrees and diplomas
7 issued by privately supported institutions, to the end that students may have
8 equal opportunities for equal accomplishment and ability. In the present
9 period, the need for educational services is so great that it cannot be met by
10 tax-supported institutions alone. The contribution of privately supported
11 educational institutions to the preservation of our liberties is essential. These
12 objectives can best be achieved by protecting the integrity of degrees and
13 diplomas issued by such institutions.

14 Therefore, it is the intent of *I Liheslaturan Guåhan* to encourage privately
15 supported education and protect the integrity of degrees and diplomas
16 conferred by privately supported as well as publicly supported educational
17 institutions.

1 **Section 2.** Section 44102(h) of Chapter 44 of Title 17 of the Guam Code

2 Annotated is hereby amended to read:

3

4 “(h) *postsecondary educational institution or institution*

5 includes, but is not limited to, any off-island

6 postsecondary institution that is chartered by, organized

7 within, and is operating in Guam; an academic,

8 vocational, technical, business, professional, home study

9 school, college or university, or other organization

10 (comprised of a person, firm, association, partnership or

11 corporation) which offers educational degrees or

12 diplomas, or offers instruction or educational services

13 primarily to persons who have completed or terminated

14 their secondary education or who are beyond the age of

15 compulsory high school attendance. Auxiliary

16 organizations of the University of Guam and the Guam

17 Community College are not included within this

18 definition and are not governed by this Chapter.”

1 **Section 3.** Section 44104 of Chapter 44 of Title 17 of the Guam Code
2 Annotated is hereby repealed and reenacted to read:

3 **“§44104. Accreditation Board.**

4 (a) There is within the government of Guam the
5 “*Accreditation Board*” hereinafter referred to as the “Board”
6 consisting of nine (9) members. Seven (7) members shall be
7 appointed by *I Maga’lahen Guåhan* and confirmed by *I*
8 *Liheslaturan Guåhan* and shall be voting members. Two (2)
9 members shall serve as consulting ex-officio non-voting
10 members consisting of the Academic Vice Presidents of the
11 University of Guam and the Guam Community College.

12 (b) Appointments shall be staggered with four (4)
13 members each serving a five (5) year term and three (3)
14 members each serving a six (6) year term to ensure
15 continuity of the Board operation. *I Maga’lahen Guåhan* shall
16 have discretion in determining the corresponding terms of
17 the initial Board membership appointments. Subsequent
18 appointments resulting from a vacancy shall be for a period

1 remaining in the vacant position created through resignation
2 or for other causes other than expiration of the appointment.
3 All other subsequent appointments including appointment
4 to fill a vacant position due to the expiration of the
5 appointment shall be for a period of six (6) years.
6 Membership of ex-officio non-voting members shall
7 commensurate with their capacities as the Academic Vice
8 President of the University of Guam and the Guam
9 Community College.

10 (c) A quorum shall be constituted upon the majority of
11 voting members present.

12 (d) Each voting Board member must be at least thirty (30)
13 years of age, a citizen of the United States, with at least five
14 (5) years as a resident of Guam with no record of conviction
15 of a felony offense and possesses at least a Masters Degree in
16 Education, Business and Related fields or a Bachelor's
17 degree with at least five (5) years of management experience
18 in education, educational administration, or related fields.

1 No other existing officer or board member of the University
2 of Guam or the Guam Community College shall sit on the
3 Board to include any officer, board member or agent of any
4 post secondary educational institution operating on Guam.

5 (e) *I Maga'lahren Guåhan* shall select among the voting
6 membership a Board Chairman and the Board shall elect a
7 Vice Chairman and Treasurer.

8 (f) Members of the Accreditation Board shall receive
9 compensation of Seventy Five Dollars (\$75.00) per meeting
10 not to exceed One Hundred Fifty Dollars (\$150.00) per
11 month. Per diem shall be approved by the board following
12 5 GCA §23104 when on official business. Board members
13 employed by the government of Guam shall be allowed
14 administrative leave with pay in the execution of this
15 Chapter.

16 (g) The Board shall function as an education advisor to *I*
17 *Maga'lahren Guåhan* and shall recognize and issue certificates
18 to institutions who have met the criteria established by the

1 Accreditation Board. The Board shall operate out of the
2 office of *I Segundo Maga'lahañ Guåhan* who shall provide
3 administrative support. The Board shall determine the time
4 and place of Board meetings pursuant to the "Open
5 Government Law" of Guam. The Board shall not meet less
6 than four (4) times in each calendar year.

7 (h) The Board shall:

8 (1) Establish minimum criteria including
9 quality of education, ethical and business
10 practices, health and safety and fiscal
11 responsibility, which applicants for
12 authorization to offer or operate education
13 services or grant degrees or diplomas as a
14 postsecondary educational institution or for an
15 agent's permit, shall meet before such
16 authorization or permit may be issued, and to
17 continue such authorization or permit in effect.
18 Criteria to be developed hereunder shall be

1 such as will effectuate the purpose of this
2 Chapter but will not unreasonably hinder
3 legitimate educational innovation.

4 (2) Receive, investigate and act upon
5 applications for authorization or approval to
6 operate an educational institution and
7 application for an agent's permit.

8 (3) Establish rules and regulations in
9 accordance with the Administrative
10 Adjudication Act as necessary to implement the
11 provisions of this Chapter. Ex-officio non-
12 voting members are permitted to vote on
13 measures required to establish or amendment
14 the rules and regulations necessary to
15 implement the provisions of the Chapter.

16 (4) To permit and require the registration of
17 agents of any post secondary institution not
18 certified on Guam.

1 (5) Provide recognition and issue an
2 appropriate certificate to those Institutions who
3 have met the criteria and are licensed to
4 operate as an Educational Institution with
5 degree granting authority.

6 (6) To conduct or require perennial
7 certification compliance reviews as established
8 by the board.

9 (7) All actions with the exception of those
10 regarding the operating procedures of the
11 Board shall be adopted according to the
12 affirmative vote of the majority of voting
13 members of the Board and shall be in writing."

14 **Section 4.** A new §44105 is hereby added to Chapter 44 of Title 17 of the
15 Guam Code Annotated to read:

16 **"§44105. Private Post Secondary Fees.** The Board shall establish
17 a schedule of fees following the requirements of 5 GCA Chapter 9, the
18 Administrative Adjudication Law, for any services, certifications, fines,

1 penalties and permits to carry out the requirements of this Chapter. An
2 off island post secondary institution shall be licensed separately for each
3 instructional site in Guam.”

4 **Section 5.** A new §44106 is hereby added to Chapter 44 of Title 17 of the
5 Guam Code Annotated to read:

6 **“§44106. Accreditation Board Revolving Fund.** (a) There is
7 hereby created, separate and apart from other funds of the government
8 of Guam, a fund known as the ‘*Accreditation Board Revolving Fund.*’ The
9 *Accreditation Board Revolving Fund* shall not be subject to the transfer
10 authority of *I Maga’lahen Guåhan*, not be commingled with the General
11 Fund and shall be kept in a separate bank account and administered by
12 the Board. This Fund shall receive all interest earned on the deposit of
13 such revenues. All monies deposited in this fund shall be derived from
14 the payment of all fees, penalties, fines, administrative duplication or
15 support costs required in the execution of this Chapter. Such funds
16 shall be continuously appropriated and shall be used by the Board
17 solely for the administration, management and enforcement of this
18 Chapter.

1 (b) Notwithstanding any other provision of law, the fund shall
2 be under the control of the Board and exempted from Bureau of
3 Budget and Management Research control. Accounting
4 procedures for the funds shall be prescribed by the Board.

5 (c) Disbursements made against the '*Accreditation Board*
6 *Revolving Fund*,' shall be approved by three fourths (3/4) vote of
7 the total membership of the Board. A treasurer shall be appointed
8 by the general membership of the Board and shall serve as the
9 certifying officer of the fund subject to all legal obligations thereof.

10 (d) Notwithstanding the general provisions of 5 GCA §22406,
11 which requires that unused and de-appropriated funds revert to
12 the General Fund, or any other provision of Guam law to the
13 contrary, unused funds in the '*Accreditation Board Revolving Fund*,'
14 shall be carried over into the next fiscal year.

15 (e) For the purchase of equipment, supplies and services not
16 exceeding One Thousand Dollars (\$1,000.00) per purchase, the
17 Board shall solicit a minimum of three (3) informal written or
18 telephonic quotations from vendors provided, however, for

1 purchases under Five Hundred Dollars (\$500.00), the Board is
2 authorized to procure equipment, supplies or services without the
3 necessity of going through the normal government procurement
4 procedures. The Board shall ensure that no purchases shall be
5 artificially divided to meet the requirements of this Section. Any
6 violation shall cause the Board to lose the right to purchase under
7 this Section. A determination of whether a violation of this Section
8 occurred will be made by the Chief Procurement Officer of the
9 government of Guam's General Services Agency.

10 (f) The Board shall require that an audit of the fund is
11 conducted each fiscal year by the Public Auditor, and a copy of
12 the report shall be transmitted to the Speaker of *I Liheslaturan*
13 *Guåhan.*"

14 **Section 6.** A new §44107 is hereby added to Chapter 44 of Title 17 of the
15 Guam Code Annotated to read:

16 **"§44107. Authority to Function as a Post Secondary Institution.**

17 In the absence of adjudicated rules and regulation required by the Board
18 to implement this Chapter and notwithstanding the provisions of this
19 Chapter, any Private Postsecondary Institution not excepted within

1 §44103 and defined within §44102(h), supra, meeting business and
2 health licensure requirements is authorized to engage and function as a
3 Postsecondary Institution. Upon adoption of adjudicated rules and
4 regulations by the Board, any Postsecondary Institution not already
5 properly licensed to operate as a postsecondary institution shall
6 hereinafter comply to the provisions of this Chapter.

7 **Section 7. Effective Date of Act.** The effective date of the provisions of
8 this Act shall be immediate upon enactment.

9 **Section 8. Severability.** *If* any provision of this Law or its
10 application to any person or circumstance is found to be invalid or contrary to
11 law, such invalidity shall *not* affect other provisions or applications of this
12 Law which can be given effect without the invalid provisions or application,
13 and to this end the provisions of this Law are severable.