

MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN  
2006 (SECOND) Regular Session

Bill No. 313(FC)

Introduced by:

L.F. Kasperbauer  
Ray Tenorio

**AN ACT TO REPEAL AND RE-ENACT §§ 3103, 3104, 3111, 3113, 3114, 3115, 3117, AND TO REPEAL §3118 AND TO AMEND §3124 TO ADD A NEW ARTICLE 3 TO CHAPTER 3 ALL OF 17GCA, TO AMEND ARTICLE 2 OF CHAPTER 43 AND §221410OF CHAPTER 22 OF 5GCA, TO AMEND §7108 OF CHAPTER 7 OF 3 GCA RELATIVE TO THE APPOINTMENT OF THE SUPERINTENDENT OF EDUCATION AND THE COMPOSITION OF THE GUAM EDUCATION POLICY BOARD AND TO CLEARLY DEFINE AND SEPARATE THE POLICY AND OPERATIONS FUNCTIONS OF THE GUAM PUBLIC SCHOOL SYSTEM.**

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

**Section 1.** Section 3103 of Title 17, Guam Code Annotated is hereby *repealed and re-enacted* to read:

**§3103. Superintendent and Deputy Superintendent of Education.**

The Superintendent of Education (Superintendent) shall be the Chief Executive Officer of the Guam Public School System. The Superintendent shall be appointed by *I Maga'lahaen Guåhan* subject to the advice and consent of *I Liheslaturan Guåhan*. Notwithstanding any other provision of law, the employment of the Superintendent shall be for a term of five (5) years. The Superintendent's employment may be terminated only for cause. The term may be extended beyond the expiration until either (1) the Superintendent is

1 reappointed and reconfirmed or (2) a new Superintendent is confirmed, except  
2 that such extension shall not exceed one (1) year.

3 The Deputy Superintendent of Education (Deputy Superintendent) shall be  
4 the Chief Operating Officer of the Guam Public School System. The Deputy  
5 Superintendent shall be appointed by *I Maga'lahaen Guåhan* subject to the advice  
6 and consent of *I Liheslaturan Guåhan*. Notwithstanding any other provision of  
7 law, the employment of the Deputy Superintendent shall be for a term of five (5)  
8 years. The Deputy Superintendent's employment may be terminated only for  
9 cause. The term may be extended beyond the expiration until either (1) the  
10 Deputy Superintendent is reappointed and reconfirmed or (2) a new Deputy  
11 Superintendent is confirmed, except that such extension shall not exceed one (1)  
12 year.

13 The Superintendent and the Deputy Superintendent are *not* members of the  
14 cabinet of *I Maga'lahaen Guåhan*.

15 In the case of temporary absence of the Superintendent, the Deputy  
16 Superintendent shall serve as acting Superintendent. In the event of temporary  
17 absence of both the Superintendent and Deputy Superintendent, *I Maga'lahaen*  
18 *Guåhan* may appoint from among any of the Associate Superintendents, or their  
19 equivalents, as an acting Superintendent. The Superintendent shall:

20 (a) administer to the day-to-day activities of the Guam Public School  
21 System;

22 (b) enforce and implement the education policies of the Board and  
23 rules and regulations of the GPSS;

24 (c) administer Federal funds/programs on behalf of the GPSS;

25 (d) serve as the GPSS' approving authority for the expenditure of  
26 funds;

1 (f) serve as the appointing authority for all personnel employed by  
2 the GPSS;

3 (g) be the Executive Secretary of the Board in an ex-officio, non-  
4 voting capacity;

5 (h) shall submit to the Board, *I Maga'lahaen Guåhan* and *I*  
6 *LiheSlaturan Guåhan* no later than thirty (30) days following the end of the fiscal  
7 year, a detailed "Annual State of Public Education Report," which provides an  
8 overview of the public education issues on Guam, and other subjects the  
9 Superintendent may deem appropriate;

10 (i) develop and present to the People of Guam, the Board, *I*  
11 *Maga'lahaen Guåhan* and *I LiheSlaturan Guåhan* a "School Performance Report  
12 Card" of each school. It shall be given in conjunction with the Annual Report;

13 (j) perform other duties as may be required by public law to provide  
14 an adequate public education system; and

15 (k) advise the Board on the current operations and status of the  
16 public schools and on other education matters and make policy recommendations;

17 (l) supply the Board with such information as may be necessary to  
18 prepare the Board to make recommendations to *I Maga'lahaen Guåhan* and *I*  
19 *LiheSlaturan Guåhan* for changes, additions or deletions to public law; and

20 (m) report to *I LiheSlaturan Guåhan* any potential or alleged  
21 violation of § 3112(b).

22 (n) It is the policy of the Government of Guam that, to the extent  
23 that it is feasible and practical, GPSS services or operations shall be privatized. It  
24 is the responsibility of the Superintendent to ensure GPSS compliance herein. If  
25 the Superintendent determines that it is feasible and practical to privatize any  
26 services or operations, the Superintendent shall in the process, comply with the  
27 laws of Guam, the Administrative Rules and Regulations of the Government of

1 Guam, the Personnel Rules and Regulations of the GPSS and the contractual  
2 obligations of any collective bargaining agreement in effect at the time of  
3 privatization.

4 (o) Notwithstanding any other provision of law or personnel rules  
5 and regulations, the Superintendent shall have the authority to assign, detail or  
6 transfer employees to various physical locations within the Guam Public School  
7 System. The Superintendent shall exercise such authority only in accordance  
8 with a policy adopted by the Board and shall not (1) cause a change in position  
9 title or job duties, or (2) contradict the provisions of any collective bargaining  
10 agreement in effect at the time of the transfer nor violate any employee's rights  
11 there-under.

12 (p) Adequate Public Education Reporting Requirements. The  
13 Superintendent of the Guam Public School System shall submit a monthly report  
14 of all funds available to the Department, whether or not their resources require  
15 appropriations by I Liheslaturan Guåhan. The report shall also contain a detailed  
16 accounting of all expenditures of funds relating such expenditures to the criteria  
17 established in 1 GCA § 715. The report is to be completed no later than fifteen  
18 (15) calendar days after the end of each month and shall be certified by the  
19 Superintendent acknowledging compliance with 1 GCA § 715 and in meeting  
20 with the objectives of § 3125 of this Chapter. The report shall be submitted to the  
21 Guam Education Policy Board, the Speaker of *I Liheslaturan Guåhan* and *I*  
22 *Maga'lahaen Guåhan*. Failure to comply with this Section and the criteria of an  
23 adequate public education shall subject the Superintendent to civil liability as  
24 provided in 7 GCA § 20302."  
25

26 **Section 2.** Section 3104 of Title 17, Guam Code Annotated is hereby  
27 *repealed and re-enacted* to read:

1                   **§3104. Qualifications for the Superintendent of Education and**  
2 **Deputy Superintendent of Education.**

3                   Superintendent of Education and Deputy Superintendent of  
4 Education shall, at a minimum, possess the following qualifications:

5                   (1) Master's Degree in Education, Business, Public Administration,  
6 or other related field from a United States accredited college or university;

7                   (2) Five (5) years experience in the field of educational leadership,  
8 public administration, management, or other related field; and

9                   (3) Good moral character and never convicted of a felony or any  
10 crime involving moral turpitude.

11  
12                   **Section 3.** Section 3104 of Title 17, Guam Code Annotated is  
13 hereby *repealed and re-enacted* to read:

14                   **§ 3111. Guam Education Policy Board.**

15                   There is hereby created a Guam Education Policy Board (Board). The  
16 Board shall consist of Nine (9) voting members as follows:

17                   **(a) Five Elected Voting Members.** Five (5) members of the Board  
18 shall be elected through island-wide elections at each General Election for a term  
19 of two (2) years. Notwithstanding any other provision of law, except for the  
20 student member and non-voting members, classified, unclassified and contracted  
21 employees of the Guam Public School System are not eligible to serve as an  
22 elected member. The candidates must be at least twenty-five (25) years old and a  
23 resident of Guam for not less than (2) years immediately preceding the date on  
24 which the member takes office and continuing throughout the term. All  
25 candidates for the Board must be citizens of the United States of America.

1                   **(b) Elected Student Voting Member.** One (1) student member of  
2 the Board shall be elected by the Island-wide Board of Governing Students for a  
3 one (1) year term.

4                   **(c) Appointed Voting Members:** The appointed voting members are  
5 as follows:

6                   (1) *I Maga'lahren Guåhan* shall appoint one (1) voting member from  
7 a list of not less than three (3) nominees, who are teachers, submitted by the  
8 exclusive bargaining unit which represents teachers and other employees in the  
9 GPSS who shall serve a term of one (1) year. The appointee may continue to  
10 serve for up to one year following the expiration of said term or until a new  
11 appointee is confirmed by *I Liheslaturan Guåhan*. Such appointee shall not  
12 serve as an officer, director or employee of the exclusive bargaining unit during  
13 said term on the board. This appointment shall be subject to the advice and  
14 consent of *I Liheslaturan Guåhan*.

15                   (2) *I Maga'lahren Guåhan* shall appoint one (1) voting member from  
16 a list of not less than three (3) nominees, who are parents with at least one child  
17 attending school in the Guam Public School System, submitted by the island-  
18 wide parent teacher organization who shall serve a term of one (1) year. The  
19 appointee may continue to serve for up to one year following the expiration of  
20 said term or until a new appointee is confirmed by *I Liheslaturan Guåhan*. Such  
21 appointee shall not serve as an officer, director or employee of the parent teacher  
22 organization during said term on the board. This appointment shall be subject to  
23 the advice and consent of *I Liheslaturan Guåhan*.

24                   (3) *I Maga'lahren Guåhan* shall appoint one (1) voting member from  
25 the community at-large for a two (2) year term, subject to the advice and consent  
26 of *I Liheslaturan Guåhan*.

1 All appointed members shall meet the same qualifications as the at-  
2 large elected members with respect to age, residency, citizenship and  
3 employment.

4 (d) **Additional Non-voting members.** The Board *may* add non-  
5 voting, ex-officio members as needed such as business leaders, civic leaders,  
6 Mayor's Council members. The term-length for such ex-officio members shall be  
7 determined by the Board.

8 (e) **Votes needed for Resolution.** Unless expressly provided for  
9 elsewhere by Public Law, actions of the Board are carried by a vote of not less  
10 than five (5) voting members.

11 (f) **Quorum.** A quorum for meetings of the Board shall consist of at  
12 least five (5) voting members.

13 (g) **Liaison for school system administrators.** The Superintendent  
14 shall be the liaison between the administrators of the Guam Public School  
15 System and the Board. Request for information on the Guam Public School  
16 System shall be routed through the Superintendent.

17  
18 **Section 4.** Section 3112 of Title 17, Guam Code Annotated is hereby  
19 *repealed and re-enacted* to read:

20 **§ 3112. Same: Duties and Responsibilities.**

21 (a) The duties and responsibilities of the Guam Education Policy Board  
22 shall include:

23 (1) establish curriculum goals and policy;

24 (2) establish student performance standards and a mechanism for  
25 standardized assessment of each student based upon the adopted standards;

26 (3) establish policy for interscholastic sports;

27 (4) establish and approve a textbook list;

1 (5) establish student discipline policy;

2 (6) establish school calendar;

3 (7) establish graduation standards;

4 (8) periodically review established policies for refinement and  
5 improvement;

6 (9) serve as Guam's State Education Policy/Governing Board for federal  
7 programs where such a board is required by federal Law to include, but not be  
8 limited to, the Head Start Program. In the event that a federal program does not  
9 require a governing board, the Guam Education Policy Board shall have no  
10 involvement in such federal program.

11 (10) make recommendations to I Maga'lahaen Guåhan and I Liheslaturan  
12 Guåhan for changes, additions or deletions to public law;

13 (11) act as the approving authority on behalf of the GPSS for collective  
14 bargaining agreements;

15 (12) establish rates and fees necessary for programs, including, but not  
16 limited to, the school lunch program;

17 (13) perform other duties and responsibilities as required by public law to  
18 provide an adequate public educational system; and

19 (14) establish a professional training and development program for its  
20 members; this program once developed and implemented, will make it  
21 mandatory that all Board members participate for the purpose of improving,  
22 expanding and refining their individual and collective policymaking skills.  
23 Some specific areas that will be covered by such a professional training and  
24 development program shall include but not be limited to: (a) Title 17, Guam  
25 Code Annotated; (b) parliamentary procedures; (c) Guam Public School System  
26 / government of Guam budgeting procedures and guidelines; (d) the government  
27 of Guam code of ethics and conflicts of interests codes; (e) the difference(s)



1 between policymaking and administration; (f) the Board/staff relations; (g) the  
2 Board media relations; and (h) conflict resolution.

3  
4 (15) Review and approve by Board resolution the spending priorities as  
5 outlined in the fiscal year budget for the GPSS.

6  
7 (b) The Board shall not collectively or individually:

8  
9 (1) exert influence in the hiring, transfer, discipline or termination of any  
10 employee of the GPSS, unless expressly authorized by public law;

11 (2) interfere in or micro-manage the affairs of the GPSS or school within  
12 the GPSS; or

13 (3) involve itself with student discipline cases, unless expressly authorized  
14 by public law, and only to the extent authorized by public law.

15  
16 (c) Any Board member shall report to *I Liheslaturan Guåhan* any potential  
17 or alleged violation of this Subsection (b).

18  
19 **Section 5.** Section 3113 of Title 17, Guam Code Annotated is hereby  
20 *repealed and re-enacted* to read:

21 **§ 3113. Same: Elected Members.**

22 (a) Five (5) elected members of the Board shall be elected at large;  
23 provided, that candidates for such election shall be nominated only as provided  
24 in § 3114 of this Chapter.

25 (b) The election provided for in this Section shall be non-partisan,  
26 and no political party shall directly or indirectly sponsor, nominate or endorse  
27 any of the candidates for such office.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**Section 6.** Section 3114 of Title 17, Guam Code Annotated is hereby *repealed and re-enacted* to read:

**§ 3114. Non-partisan Office.**

The Office of Guam Education Policy Board Member is a non-partisan office. Candidates for the Office Guam Education Policy Board Member shall not identify themselves as members of any political party on Guam for the purpose of their campaign, nor shall they receive any endorsement or material support from any political party on Guam during the course of their campaigns. No Primary Election is required for candidates for this office. No nominating petitions shall be required of any candidate for this Office. Any qualified person applying to the Guam Election Commission, or its successor, for candidacy to this office shall be placed on the General Election ballot. Such application must be filed with the Commission not later than sixty (60) days prior to the General Election, unless such date is a holiday, in which it shall be filed the day following the holiday. In each election, the five (5) candidates receiving the highest numbers of votes shall be the elected as members of the Guam Education Policy Board, without regard to the actual number of votes cast or received, and no runoff elections shall be required.

**Section 7.** Section 3115 of Title 17, Guam Code Annotated is hereby *repealed and re-enacted* to read:

**§ 3115. Term of Office of Elected Members.**

The terms of office of Board members elected pursuant to this Section shall commence at 12:00 p.m. on the first Monday of the month of January immediately following their election.

1           **Section 8.** Section 3117 of Title 17, Guam Code Annotated is hereby  
2 *repealed and re-enacted* to read:

3           **§3117. Same: Vacancies.**

4           Any vacancies of elected member positions occurring on the Board  
5 shall be filled by appointment of *I Maga'lahaen Guåhan* for the remaining term of  
6 the vacating member, subject to the advice and consent of *I Liheslaturan*  
7 *Guåhan*.

8  
9           **Section 9.** Section 3120 of Title 17, Guam Code Annotated is hereby  
10 *repealed and re-enacted* to read:

11           **§3120. Same: Meetings and Stipends.** The Board shall meet once  
12 per quarter. Stipends for each quarterly meeting shall be Two hundred Fifty  
13 Dollars (\$250). The Board may hold emergency meetings at the call of either the  
14 Chairperson or the Superintendent. The Stipend for an emergency meeting shall  
15 be Fifty (\$50). The Board may hold work sessions at the discretion of the  
16 Chairperson but no stipend shall be paid for such work sessions.

17  
18           **Section 10.** Section 3118 of Title 17, Guam Code Annotated is  
19 hereby *repealed* in its entirety.

20  
21           **Section 11.** Section 3124 of Title 17, Guam Code Annotated is  
22 hereby *amended* to read:

23           **§3124. Removal of Elected Board Members.**

24 An elected Board member shall be removed from the Education Policy Board by  
25 the following means:

26 (a) automatically upon conviction of a felony;

1 (b) automatically upon conviction of a misdemeanor involving the possession of  
2 a Controlled Substance or operation of a vehicle while under the influence of  
3 alcohol or a controlled substance; or

4 (c) by a referendum election in which at least two-thirds (2/3) of the number of  
5 persons voting for the individual Board member under recall in the last preceding  
6 general election at which such Board member was elected vote in favor of a  
7 recall, and in which those so voting constitute a majority of all those participating  
8 in the referendum ~~election for that Board member's district.~~

9 The referendum election shall be initiated by I Liheslaturan Guåhan  
10 following:

11 (a) a two-thirds (2/3s) vote of the members of I Liheslaturan  
12 Guåhan in favor of a referendum, or

13 (b) a petition for such a referendum to I Liheslaturan Guåhan  
14 by registered voters equal in number to at least fifty percent (50%) of  
15 the whole number of votes cast for the Board at the last general  
16 election for that Board member's ~~district~~ at which such ~~official~~ Board  
17 member was elected preceding the filing of the petition. A violation  
18 by a Board member of 17 GCA § 3112(b) may be grounds for a  
19 referendum election.

20  
21 **Section 12. Effective date of Section 3 of this Act.** The Guam  
22 Education Policy Board (GEPB) board provisions of Sections 3 and 5 of this Act  
23 shall apply to the GEPB to be elected during the 2006 General Election. The  
24 Guam Election Commission shall conduct such election in a manner consistent  
25 with the provisions enacted herein. Such GEPB members elected during the  
26 2006 General Election shall be seated as prescribed by the provisions of Section  
27 6 of this Act.

1           Notwithstanding the amendments herein this Act, a member(s) of the  
2           GEPB elected in the 2004 General Election may continue to serve until 12:00pm  
3           of the first Monday in January 2007, unless such member(s) is removed or  
4           recalled (pursuant to 17GCA: §3124) from office in a manner consistent with  
5           provisions of Public Law in force at the time such GEPB member(s) was elected.  
6           Nothing herein this Act shall prohibit the electorate to recall an elected member  
7           of the GEPB pursuant to the provisions of law in place at the time such member  
8           was elected.

9                       **Section 13. Guam Public School System Administrative**  
10           **Reorganization.**    The Superintendent shall submit an administrative  
11           reorganization of the GPSS central operations to *I Liheslaturan Guåhan* for its  
12           consideration for approval.

13  
14  
15                       **Section. 14.** Section 7108 of Chapter 7 of 3G.C.A. is hereby *amended* to  
16           read as follows:

17  
18                       **§7108. Space for Marking Ballot; Space for Write-in Candidates.** (a)  
19           Immediately adjacent to the name of each nominee or adjacent to the word incumbent,  
20           as the case may be, shall be placed ovals or other spaces of sufficient size for the  
21           placing of a mark therein. A clear and distinct mark within the oval or other space  
22           adjacent to the name of any nominee or candidate shall be counted as a vote for that  
23           nominee or candidate.

24                       (b) For each office on a ballot, except for member of the *Guam Education Policy*  
25           *Board*, the Commission shall provide a line, or lines, with an oval or other space to  
26           mark to permit votes to be cast for write-in candidates. *If* the name filled in by a voter  
27           adequately identifies the write-in candidate, the vote shall be valid for that candidate;

1 *provided*, that the voter has filled in or darkened the adjacent oval or other space that is  
2 to be marked.

3

4 **Section. 15.** Section 221410 of Chapter 22, Article 14 of 5G.C.A. is hereby  
5 *amended* to read as follows:

6 **§ 221410. School Facilities and Maintenance.** The locations of the two (2)  
7 public high schools, one (1) public middle school, and two (2) public elementary  
8 schools, which are to be constructed and financed pursuant to this Article, shall be  
9 determined by the Guam Education Policy Board pursuant to the priorities established  
10 in the Ten-Year Capital Facilities Plan of the Guam Public School System. In addition,  
11 the Superintendent of Education ~~Guam Education Policy Board~~ shall outsource the  
12 building and grounds maintenance, custodial, and food services of the newly  
13 constructed schools that are funded by this Article.