

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

Bill No. 339 (cc)

Introduced by:

L.F. Kasperbauer 
Mark Forbes

**AN ACT AMEND §§ 3103, 3112, OF TITLE 17, GUAM CODE
ANNOTATED RELATIVE TO TERMINATION OF THE
SUPERINTENDENT OF EDUCATION AND THE DUTIES OF
THE GUAM EDUCATION POLICY BOARD .**

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

2
3 **Section 1.** Section 3103 of Title 17, Guam Code Annotated is hereby
4 *amended* to read:

5 **§3103. Superintendent and Deputy Superintendent of Education.**

6 The Superintendent of Education (Superintendent) shall be the Chief
7 Executive Officer of the Guam Public School System. The Superintendent shall
8 be appointed by the Board. Notwithstanding any other provision of law, the
9 employment of the Superintendent shall be by contract for a term of ~~three (3)~~
10 years four (4) years, which contract shall contain a provision that the
11 Superintendent's employment may only be terminated for *cause*, as defined
12 herein.

13 Termination of the Superintendent shall require a vote of Six (6) Board
14 members. Upon passage of a resolution for termination, the Chairperson of the
15 Board shall notify, in writing, the Superintendent of the Board's action and shall
16 expressly state in such notification the grounds for termination. The
17 Superintendent will then be permitted to meet with the Board, in executive

1 session, to informally discuss such termination. Should the Board subsequently
2 wish to proceed with such termination, the Superintendent shall have the right to
3 a full and public hearing on the matter, during which full disclosure of the cause
4 for termination shall be made, and during which, at the discretion of the
5 Superintendent, full testimony may be received from members of the public. In
6 any case, the Superintendent shall have the right to make a full and complete
7 presentation of personal testimony at such hearing.

8 Only violation of the following provisions is cause for the discharge of the
9 Superintendent:

- 10 (a) Holding financial interests that conflict with the conscientious
11 performance of duty.
- 12 (b) Engaging in financial transactions using confidential or non- public
13 GPSS information or allowing the improper use of such information
14 to further any private interests.
- 15 (c) Except as permitted by statute or regulation, the solicitation or
16 acceptance of any item of monetary value from any person or entity
17 seeking official action from, doing business with, or conducting
18 activities regulated by GPSS, or from persons whose interest may
19 be substantially affected by the performance or non performance of
20 the Superintendents duties, or that of GPSS.
- 21 (d) Knowingly making unauthorized commitments or promises of any
22 kind purporting to bind GPSS, except as permitted by law.
- 23 (e) Use of official position for private gain.
- 24 (f) Failure to, in good faith, disclose waste, abuse, and corruption to
25 appropriate authorities.

- 1 (g) Failure to respect the rights and privacy of others and the use of
2 official position, authority or other means to injure another person
3 for personal reasons or malicious purposes.
4 (h) Failure to refrain from the unlawful use of drugs and alcohol.
5 (i) Fraud or misrepresentation in securing appointment.
6 (j) Refusal or failure to perform prescribed duties and responsibilities
7 as defined in law.
8 (k) Unlawful use, possession, or sale of illicit drugs.
9 (l) Criminal Acts.
10 (m) Political activity prohibited by law.
11 (n) Misuse, misappropriation or theft of government property or funds.
12 (o) Acts of prohibited discrimination to include sexual harassment.
13 (p) Abandonment of position.

14
15 In the case of temporary absence of the Superintendent, the ~~Board~~
16 ~~Chairperson~~ Superintendent may, appoint among any of the Associate
17 Superintendents, or their equivalents, as an acting Superintendent. The
18 Superintendent shall:

- 19 (a) administer to the day-to-day activities of the Guam Public School
20 System;
21 (b) enforce and implement the education policies of the Board and
22 rules and regulations of the GPSS;
23 (c) administer Federal funds/programs on behalf of the GPSS;
24 (d) serve as the GPSS' approving authority for the expenditure of
25 funds;
26 (f) serve as the appointing authority for all personnel employed by
27 the GPSS;

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

3 (h) shall submit to the Board, I Maga'lahaen Guåhan and I
4 Liheslaturan Guåhan no later than thirty (30) days following the end of the fiscal
5 year, a detailed "Annual State of Public Education Report," which shall discuss
6 the public educational issues on Guam, and other subjects the Superintendent
7 may deem appropriate. The Superintendent shall also submit such fiscal,
8 instructional, academic progress and other information as may be required by the
9 Board to reflect the quality of public education.;

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) to perform other duties as may be required by public law to
14 provide an adequate public educational system; and

15 (k) to advise the Board on the current operations and status of the
16 public schools and on other educational matters;

17 (l) to supply the Board with such information as it may require and
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) prepare a feasibility/impact/cost savings analysis for the Guam
23 Education Policy Board recommending the potential privatization of existing
24 services for the Guam Public School System.

25 (o) Notwithstanding any other provision of law or personnel rules
26 and regulations, the Superintendent shall have the authority to assign, detail or
27 transfer employees to various physical locations within the Guam Public School

1 System. The Superintendent shall exercise such authority only in accordance
2 with a policy adopted by the Board and shall not (1) cause a change in position
3 title or job duties, or (2) contradict the provisions of any collective bargaining
4 agreement in effect at the time of the transfer nor violate any employee's rights
5 thereunder.

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

20 **Section 2.** Section 3112 of Title 17, Guam Code Annotated is hereby
21 *amended* to read:

22
23 **§ 3112. Same: Duties and Responsibilities.**
24

25 (a) The duties and responsibilities of the Guam Education Policy
26 Board shall include, unless prohibited by 17GCA: §3112(b) the following:
27

- 1 (1) establish curriculum goals and policy;
- 2 (2) establish student performance standards and a mechanism for
3 standardized assessment of each student based upon the adopted standards;
- 4 (3) establish policy for interscholastic sports;
- 5 (4) establish and approve a textbook list;
- 6 (5) establish student discipline policy;
- 7 (6) establish school calendar;
- 8 (7) establish graduation standards;
- 9 (8) periodically review established policies for refinement and
10 improvement;
- 11 (9) serve as Guam's State Education Policy/Governing Board for
12 Federal programs where such a board is required by Federal Law to include, but
13 not be limited to, the Head Start Program; In the event that federal programs do
14 not require a governing board, the Guam Education Policy Board shall have no
15 involvement with such federal programs but that all federal grant applications
16 must be presented to the board at least 15 days prior to transmittal. In event of
17 emergency, the Board may reduce or waive such 15 day presentation
18 requirement;
- 19 (10) make recommendations to I Maga'lahañ Guåhan and I
20 Liheslaturan Guåhan for changes, additions or deletions to public law;
- 21 (11) approve or revoke a school's decentralization status for
22 purposes of school-based management;
- 23 (12) act as the approving authority on behalf of the GPSS for
24 collective bargaining agreements;
- 25 (13) establish rates and fees necessary for programs, including, but
26 not limited to, the school lunch program;

1 (14) perform other duties and responsibilities as required by public
2 law to provide an adequate public educational system; and

3 (15) establish a professional training and development program for
4 its members; this program once developed and implemented, will make it
5 mandatory that all Board members participate for the purpose of improving,
6 expanding and refining their individual and collective policymaking skills. Some
7 specific areas that will be covered by such a professional training and
8 development program are: (a) Title 17, Guam Code Annotated; (b) Roberts Rules
9 of Order; (c) Guam Public School System / government of Guam budgeting
10 procedures and guidelines; (d) government of Guam code of ethics and conflicts
11 of interests codes; (e) difference(s) between policymaking administration; (f)
12 Board/staff relations; (g) Board media relations; and (h) conflict resolution-staff,
13 parents, students, community, colleagues, etc.

14 (16) privatization of GPSS services or operations must be authorized
15 by the Board and executed by:

16 (a) directing the Superintendent of Education to issue a Request for
17 Proposal (RFP) or an Invitation for Bid (IFB) for the privatization of services
18 within the Guam Public School System and implementing the privatization of
19 services within the budgeted allocation level approved by the Board;

20 (b) the issuance of an RFP or an IFB and the award thereof shall be
21 in conformance with all applicable procurement laws and regulations of Guam;
22 and

23 (c) the disposition of any employee of the GPSS, affected or
24 displaced by such action, shall follow all applicable laws and regulations of
25 Guam.

26 (d) For all Guam Public School System privatized food services,
27 cafeterias, or cafeteria services, contractors operating GPSS cafeterias and food

1 services shall comply with 5GCA 5001(e) and Chapter 68 of Title 5, Guam Code
2 Annotated, relative to the procurement of local products, in place and stead of the
3 Guam Public School System. The Guam Public School System shall require
4 compliance with these provisions as part of its contracts for privatization
5 subsequent to the enactment of this Subsection.

6 (17) Review and approve by Board resolution the spending priorities
7 as outlined in the fiscal year budget for the GPSS.

8
9 (b) The Board shall not collectively or individually:

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

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

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

16 (4) involve itself in operational matters related to the administration
17 of federal funds and federal grants.

18
19 Any Board member shall report to I Liheslaturan Guåhan any
20 potential or alleged violation of this Subsection (b).

21
22 **Section. 3.** Article 2 of Chapter 43 of 5G.C.A. is hereby *amended* to read as
23 follows:

24 **Article 2**

25 **§43201.** Definitions

26 **§43202.** Performance Reviews of Agency Heads

27 **§43203.** Publication of Performance Reviews

1 **§43201. Definitions.** For purposes of this Article only: *Agency, instrumentality,*
2 or *entity* shall mean the ~~Guam Public School System~~, the Guam Power Authority, the
3 Guam Waterworks Authority, the Guam Telephone Authority, the Guam Housing
4 Corporation, the Guam Housing and Urban Renewal Authority, the Public Defender
5 Service Corporation, the Jose D. Leon Guerrero Commercial Port, the A.B. Won Pat
6 Guam International Airport Authority, the Guam Economic Development and
7 Commerce Authority, the Civil Service Commission, the Department of Chamorro
8 Affairs, the Chamorro Land Trust Commission, the Ancestral Lands Commission, the
9 Guam Memorial Hospital Authority, the Guam Educational Telecommunications
10 Corporation, the Guam Council of the Arts and Humanities, the Guam Visitors Bureau,
11 the Guam Environmental Protection Agency, the Guam Election Commission, and the
12 Government of Guam Retirement Fund.

13 *Governing Board* shall mean the Consolidated Commission on Utilities, ~~the~~
14 ~~Education Policy Board~~, Board of Directors, council, commission, or board with the
15 statutory authority to select the chief executive of the agency, instrumentality, or entity
16 for which it determines policy. *Chief Executive* shall mean the Senior Manager who
17 heads an agency including, but not limited to, the Director, Executive Director, General
18 Manager, President, Hospital Administrator, or Administrator.

19 **§43202. Performance Reviews of Agency Heads.** The governing boards for all
20 agencies, instrumentalities, or entities shall issue performance reviews of the chief
21 executive selected for that agency, six (6) months after appointment of the said chief
22 executive and every six (6) months thereafter that the Chief Executive is retained by the
23 Governing Board. Each performance review shall document the Chief Executive's
24 performance, accomplishments, and the respective Governing Board's reasons for
25 retaining the said Chief Executive.

26 **§43203. Publication of Performance Reviews.** The performance reviews
27 required under this Act shall be made public and the availability of these reviews shall

1 be published by the respective governing boards issuing the aforementioned reviews by
2 newspaper of general circulation or by radio or television which is reasonably
3 calculated to provide notice of the facts it announces to the public at large.

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