



I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) REGULAR SESSION

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Bill No. ³²⁰ (EC)

Introduced by:

J.P. Guthertz 
R.J. Respicio 

AN ACT TO AMEND §§ 3102, 3103, 3104, 3111, 3112, 3120,
AND 3206 OF ARTICLE 1 CHAPTER 3 TITLE 17 GUAM
CODE ANNOTATED RELATIVE TO MANAGEMENT OF
THE GUAM PUBLIC SCHOOL SYSTEM AND THE
COMPOSITION OF THE GUAM BOARD OF EDUCATION.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. § 3102 of Article 1 Chapter 3 Title 17 Guam Code Annotated is
3 hereby amended to read:

4 “§ 3102. Administration of the Guam Public School System and
5 Education Policy. The Guam Public School System shall be administered
6 by the Superintendent of Education [~~T~~] under the direction of the Guam
7 [~~Education Policy~~] Board of Education (Board) which shall be a governing
8 board as well as a policy board and shall develop and adopt system-wide
9 education policies as specified by § 3112 of this Chapter. The
10 Superintendent of Education shall be responsible for implementing the
11 policies of the Board.”

1 **Section 2. § 3103 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**
2 **hereby amended to read:**

3 **“§ 3103. Superintendent and Deputy Superintendent of Education.**

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

11 (a) Termination of the Superintendent shall require an
12 affirmative vote of six (6) Board members. Upon passage of a
13 resolution for termination, the Chairperson of the Board shall notify
14 the Superintendent of the Board’s action in writing and shall
15 expressly state the grounds for termination in said notification. When
16 the Board serves said notice, the Superintendent shall be on
17 administrative leave until he is either reinstated or terminated and
18 GPSS shall be administered by an acting Superintendent appointed
19 by the Board Chairperson. The Superintendent will then be permitted

1 to meet with the Board, in executive session, within three (3) working
2 days after service of the notification, to informally discuss the
3 termination. If the Board decides to proceed with termination, the
4 Superintendent shall have the right to a full and public hearing on
5 the matter within seven (7) days after the Board's decision, during
6 which hearing full disclosure of the cause for termination shall be
7 made, and during which, at the request of the Superintendent, full
8 testimony shall be received from the public. In any case, the
9 Superintendent shall have the right to make a full and complete
10 presentation of his personal testimony at such hearing.

11 (b) Only the following constitute cause for the discharge of the
12 Superintendent or Deputy Superintendent:

13 (1) holding financial interests that conflict with the
14 conscientious performance of his or her duties;

15 (2) engaging in financial transactions using confidential
16 or non-public GPSS information or allowing the improper use
17 of such information to further any private interests;

18 (3) except as permitted by statute or regulation, the
19 solicitation or acceptance of any item of value from any person

1 or entity seeking official action from, doing business with, or
2 conducting activities regulated by GPSS, or from persons
3 whose interest may be substantially affected by the
4 performance or nonperformance of the Superintendent's duties,
5 or the duties of GPSS;

6 (4) knowingly making commitments or promises of any
7 kind purporting to bind GPSS except as permitted by law;

8 (5) use of his or her official position for private gain or
9 that of others;

10 (6) failure to disclose waste, abuse and corruption to the
11 appropriate authorities;

12 (7) failure to respect the rights and privacy of others and
13 the use of his or her official position, authority or other means
14 to injure another person for personal reasons or malicious
15 purposes;

16 (8) fraud or misrepresentation in securing his or her
17 appointment;

18 (9) refusal or failure to perform duties and responsibilities
19 as defined by law;

1 (10) unlawful use, possession or sale of illicit drugs and
2 alcohol;

3 (11) criminal acts involving moral turpitude;

4 (12) political activity prohibited by law;

5 (13) misuse, misappropriation or theft of government
6 property or funds;

7 (14) prohibited acts of discrimination, including sexual
8 harassment; or

9 (15) abandonment of his or her position.

10 (c) In the case of temporary absence of the Superintendent, the
11 Superintendent may, after consultation with the Chairperson of the
12 Board, appoint among any of the Associate Superintendents, or their
13 equivalents, an acting Superintendent. The Superintendent shall:

14 (1) administer the day-to-day activities of the Guam
15 Public School System;

16 (2) enforce and implement the education policies of the
17 Board and rules and regulations of the GPSS;

18 (3) administer Federal funds/programs on behalf of the
19 GPSS;

1 (4) serve as the GPSS' approving authority for the
2 expenditure of funds;

3 (5) serve as the appointing authority for all personnel
4 employed by the GPSS;

5 (6) be the Executive Secretary of the Board in an ex-
6 officio, nonvoting capacity;

7 (7) shall submit to the Board, *I Maga'lahaen Guåhan* and *I*
8 *Lihe slaturan Guåhan* no later than thirty (30) days following the
9 end of the fiscal year, a detailed "Annual State of Public
10 Education Report," which shall discuss the public educational
11 issues on Guam, and other subjects the Superintendent may
12 deem appropriate, and shall also submit such fiscal,
13 instructional, academic progress and other information as may
14 be required by the Board to reflect the quality of public
15 education;

16 (8) develop and present to the people of Guam, the Board,
17 *I Maga'lahaen Guåhan* and *I Lihe slaturan Guåhan* a "School
18 Performance Report Card" of each school, which shall be given
19 in conjunction with the Annual Report;

1 (9) to perform other duties as may be required by public
2 law to provide an adequate public educational system;

3 (10) to advise the Board on the current operations and
4 status of the public schools and on other educational matters;

5 (11) to supply the Board with such information as it may
6 require and prepare the Board to make recommendations to *I*
7 *Maga'lahen Guåhan* and *I Liheslaturan Guåhan* for changes,
8 additions or deletions to public law;

9 (12) report to *I Liheslaturan Guåhan* any potential or
10 alleged violation of § 3112(b);

11 (13) prepare a feasibility/impact/cost savings analysis for
12 the [~~Guam Education Policy~~] Board recommending the
13 potential privatization of existing services for the Guam Public
14 School System;

15 (14) Notwithstanding any other provision of law or
16 personnel rules and regulations, the Superintendent shall have
17 the authority to assign, detail or transfer employees to various
18 physical locations within the Guam Public School System. The
19 Superintendent shall exercise such authority only in accordance

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

6 (15) Adequate Public Education Reporting Requirements.
7 The Superintendent of Education shall submit a monthly report
8 of all funds available to the Guam Public School System,
9 whether or not their resources require appropriations by *I*
10 *Liheslaturan Guåhan*. The report shall also contain a detailed
11 accounting of all expenditures of funds relating such
12 expenditures to the criteria established in Title 1 GCA §715 and
13 the status of compliance with the Adequate Education Act. The
14 report is to be completed no later than fifteen (15) calendar days
15 after the end of each month and shall be certified by the
16 Superintendent acknowledging compliance with Title 1 GCA
17 §715 and in meeting the objectives of §3125 of this Chapter. The
18 report shall be submitted to the [~~Guam Education Policy~~]

1 Board, the Speaker of *I Liheslaturan Guåhan* and *I Maga'laha*
2 *Guåhan*.

3 (16) Conduct periodic assessments and management and
4 curriculum audits of the Guam Public School System for the
5 following purposes:

6 (A) To ascertain whether the System is providing an
7 adequate public education as defined by Title 1 GCA
8 §715;

9 (B) To evaluate the effectiveness of GPSS
10 administrators in implementing board policy and in
11 fulfilling assigned objectives;

12 (C) To evaluate the effectiveness of GPSS
13 instructional personnel and their ability to meet
14 curriculum goals; and

15 (D) To recommend alternatives to correct systemic
16 deficiencies and to improve the ability of GPSS personnel
17 to fulfill assigned objectives.

18 Said audits shall also identify and assess deficiencies in
19 GPSS organizational structure; compliance with federal and

1 local laws and with board policies; physical and operational
2 security; workflow designs and management; internal controls;
3 staffing levels and competencies; management levels and
4 competencies; management practices; training standards and
5 practices; adequacy of facilities; physical plant management;
6 technical and administrative infrastructure; redundancy of
7 systems and procedures; productivity and quality standards;
8 recruitment, certification training of teachers, and recruitment,
9 training and staff development. Said audits shall be conducted
10 at intervals determined by the [~~Guam Education Policy~~] Board
11 of not less than three (3) years and no more than five (5) years.

12 The [~~Guam Education Policy~~] Board shall solicit audit
13 proposals for said audits both locally and nationally. The Board
14 shall create and maintain a list of qualified auditing firms that
15 specialize in management and curriculum audits of schools and
16 school districts. The Board shall transmit Requests for
17 Proposals to all known qualified auditing firms and solicit
18 through local and national publications.

1 (17) promulgate rules and regulations for the
2 implementation and operation of §§3127 through 3131 of this
3 Title as necessary.

4 (18) The Board shall organize the school system such that
5 no more than twelve (12) administrators shall report directly to
6 the Superintendent and no more than twelve (12)
7 administrators report directly to the Deputy Superintendent.
8 All administrators reporting directly to either the
9 Superintendent or Deputy Superintendent shall be hired on
10 performance-based contracts and shall not have classified civil
11 service status."

12 **Section 3. § 3104 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**
13 **hereby amended to read:**

14 **"§ 3104. Qualifications for the Superintendent of Education**
15 **and Deputy Superintendent of Education.**

16 (a) The Board shall adopt the qualifications and compensation
17 for the Superintendent of Education and Deputy Superintendent of
18 Education, or any amendments thereto, provided that such
19 qualifications must not be in conflict with the minimum

1 qualifications established in this Section. The Superintendent of
2 Education shall, at a minimum, possess the following qualifications:

3 (1) A Master's Degree in Education, Business, Public
4 Administration, or other related field from a college or
5 university accredited by a United States accrediting body
6 recognized by the Council on Higher Education Accreditation
7 (CHEA) or its successor, or an equivalent foreign university. A
8 foreign degree is equivalent to a degree granted by a college or
9 university accredited by a CHEA recognized accrediting body
10 when any of the following applies:

11 (A) such degree qualifies the degree-holder for
12 enrollment in a graduate or post-graduate program in a
13 college or university accredited by a CHEA recognized
14 accrediting body;

15 (B) such degree qualifies the degree-holder for
16 employment in a faculty or academic administrative
17 position in a college or university accredited by a CHEA
18 recognized accrediting body; or

1 (C) the degree was conferred by a foreign
2 institution recognized by the United States Department of
3 Education at the time such degree was conferred;

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

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

9 (b) The Board may add additional qualifications provided that
10 such qualifications are consistent with the Minimum Knowledge,
11 Abilities and Skills (KAS) required for such job and do not violate the
12 Equal Employment Opportunity Act (42 U.S.C.). Any additional
13 qualifications must be included in the published job description.

14 (c) If the Board hires a Deputy Superintendent, it shall use the
15 same voting and public hearing procedures for adoption of the
16 positions qualifications and compensation as it uses for the position
17 of Superintendent. The minimum qualifications of the Deputy
18 Superintendent shall be [~~identical~~] complimentary to those for the
19 Superintendent.

1 (d) In determining the salary of the Superintendent and Deputy
2 Superintendent, the Board may consider: (1) salaries for similar
3 positions in other United States school districts that have a similar
4 number of students; (2) the complexity, in terms of problem solving,
5 accountability and expertise of the job compared to positions of a
6 similar level in other government agencies; and (3) the complexity, in
7 terms of the problem solving, accountability and expertise of the job
8 compared to positions of a similar level in other education agencies
9 within the government of Guam.”

10 **Section 4. § 3111 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**

11 **hereby amended to read:**

12 **“§ 3111. Guam [~~Education Policy~~] Board of Education.**

13 There is hereby created a Guam [~~Education Policy~~] Board of Education
14 (Board). The Board shall consist of at least thirteen (13) members as follows:

15 (a) Nine (9) District Elected Voting Members. Beginning with
16 the 2008 General Election, nine (9) members of the Board shall be
17 elected through district-wide elections in a General Election and in
18 the manner described in § 3111.1. Notwithstanding any other
19 provision of law, except for the student member, appointed voting

1 members, and non-voting members, unclassified and contracted
2 employees of the Executive and Legislative Branches and all
3 employees of the Guam Public School System are not eligible to run.
4 The candidates must be at least twenty-five (25) years old, and at
5 least two (2) year resident of Guam, and a resident and domiciliary in
6 that District the candidate will be representing for at least two (2)
7 years immediately preceding the date on which the member takes
8 office and continuing throughout the term. All candidates for the
9 Board must be citizens of the United States of America.

10 (b) One (1) Student [~~Non~~] Voting Member. One (1) student
11 member of the Board shall be elected by the Island-wide Board of
12 Governing Students.

13 (c) Appointed[~~Non~~] Voting Members. For the purpose of
14 providing a greater voice for employees as well as to promote and
15 support the K through 16 concept, three (3) members shall be
16 appointed as follows:

17 (1) One (1) Exclusive Bargaining Unit Voting Member.

18 The Board shall appoint one (1) [~~non~~] voting member from a
19 list of not less than three (3) nominees submitted by the

1 exclusive bargaining unit which represents teachers and other
2 employees in the GPSS. The [~~non-~~] voting member shall serve a
3 term of one (1) year and shall recuse himself from any
4 discussion or action concerning any collective bargaining
5 agreement between the bargaining unit and the Board.

6 (2) One (1) Voting Member representing the University of
7 Guam appointed by the President of the University of Guam
8 who may appoint himself. The member shall serve until
9 replaced by the appointing authority.

10 (3) One (1) Voting Member representing the Guam
11 Community College appointed by the President of the Guam
12 Community College who may appoint himself. The member
13 shall serve until replaced by the appointing authority.

14 (d) Additional Non-voting members. The Board may add
15 nonvoting, ex-officio members as needed. The terms for such ex-
16 officio members shall be determined by the Board.

17 (e) Votes needed for action. Unless expressly provided for
18 elsewhere by public law, actions of the Board are carried by a vote of
19 a majority of [~~five (5) voting~~] members present.

1 (f) Quorum. A quorum for meetings of the Board shall consist
2 of a simple majority of the voting members. [~~All actions shall need a~~
3 ~~positive vote of the majority of the voting members present to be~~
4 ~~valid.~~]"

5 **Section 5. § 3112 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**
6 **hereby amended to read:**

7 **"§ 3112. Same: Duties and Responsibilities.**

8 (a) The duties and responsibilities of the Guam ~~Education~~
9 ~~Policy~~ **Board of Education** Board shall include, unless prohibited by
10 subsection (b) hereof, the following:

11 (1) establish curriculum goals and policy;

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

15 (3) establish policy for interscholastic sports;

16 (4) establish and approve a textbook list;

17 (5) establish student discipline policy;

18 (6) establish a school calendar;

19 (7) establish graduation standards;

1 (8) periodically review established policies for refinement
2 and improvement;

3 (9) serve as Guam's State Education Policy/Governing
4 Board for Federal programs where such a board is required by
5 Federal Law to include, but not be limited to, the Head Start
6 Program; [~~the Guam Education Policy Board shall have no~~
7 ~~involvement with federal programs that do not require a~~
8 ~~governing board except that~~] The Board shall act as a governing
9 board for all Federal programs to provide for the requisite
10 authority to go with the desired accountability. All federal
11 grant applications must be presented to the board at least
12 fifteen (15) days prior to final transmittal to the federal
13 government. In the event of an emergency, the Board may
14 reduce or waive said fifteen (15) day presentation requirement;

15 (10) make recommendations to *I Maga'lahaen Guåhan* and *I*
16 *Lihaslaturan Guåhan* for changes, additions or deletions to public
17 law;

18 (11) approve or revoke a school's decentralization status
19 for purposes of school-based management;

1 (12) act as the approving authority on behalf of the GPSS
2 for collective bargaining agreements;

3 (13) establish rates and fees necessary for programs,
4 including, but not limited to, the school lunch program;

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

8 (15) The University of Guam shall adopt and implement a
9 professional training development program for the members of
10 the Board. The Guam Public School System (GPSS) shall pay
11 the cost of the professional training and development program
12 from the appropriations made to the Guam Public School
13 System Operations Fund. This professional training and
14 development program shall be mandatory for Board members
15 to complete within thirty (30) days of taking office for the
16 purpose of improving, expanding and refining their individual
17 and collective policy making skills. Some specific areas that will
18 be covered by such professional training and development
19 program shall include but not be limited to:

1 (A) Board Operations;

2 (B) Board Skills and Service;

3 (C) Review of the Guam Code Annotated and other
4 laws pertaining to GPSS;

5 (D) Roberts Rules of Order;

6 (E) Guam Public School System/government of
7 Guam budgeting procedures and guidelines; and

8 (F) [~~Difference(s) between policy making and~~
9 ~~micromanagement of the affairs of GPSS;~~] Proper
10 differentiation between policy and operations and the
11 proper avoidance of micro-management while
12 accomplishing the governing and policy responsibilities
13 necessary to achieve the mission of adequate education
14 for the students.

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

17 (A) directing the Superintendent of Education to
18 issue a Request for Proposal (RFP) or an Invitation for Bid
19 (IFB) for the privatization of services within the Guam

1 Public School System and implementing the privatization
2 of services within the budgeted allocation level approved
3 by the Board;

4 (B) the issuance of an RFP or an IFS and the award
5 thereof shall be in conformance with all applicable
6 procurement laws and regulations of Guam;

7 (C) the disposition of any employee of the GPSS,
8 affected or displaced by such action, shall follow all
9 applicable laws and regulations of Guam; and

10 (D) For all Guam Public School System privatized
11 food services, cafeterias, or cafeteria services, contractors
12 operating GPSS cafeterias and food services shall comply
13 with 5 GCA § 5001(e) and Chapter 68 of Title 5, Guam
14 Code Annotated, relative to the procurement of local
15 products, in place and stead of the Guam Public School
16 System. The Guam Public School System shall require
17 compliance with these provisions as part of its contracts
18 for privatization subsequent to the enactment of this
19 Subsection;

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

4 (b) The Board shall not collectively or individually [-:

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

7 ~~(2) interfere in or micro-manage the affairs of the GPSS or schools within~~
8 ~~the GPSS;~~

9 ~~(3)}~~ involve itself with student discipline cases, unless expressly authorized
10 by public law, and only to the extent authorized by public law };

11 ~~(4) involve itself in operational matters related to the administration of~~
12 ~~federal funds and federal grants.~~

13 ~~Any Board member shall report to I Liheslaturan Guåhan any potential or~~
14 ~~alleged violation of this subsection (b)]."~~

15 **Section 6. § 3120 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**
16 **hereby amended to read:**

17 **"§ 3120. Same: Stipend.**

18 ~~[Members of the Board shall be paid the amount of Seventy five Dollars~~
19 ~~(\$75.00) for each day on which they attend a regular, special or executive~~

1 ~~meeting, not to exceed One Hundred Fifty Dollars (\$150.00) in any month.]~~
2 Voting members of the Board shall be compensated in the same amount
3 and manner as members of the Consolidated Commission on Utilities
4 (CCU)."

5 **Section 7. § 3206 of Article 1 Chapter 3 Title 17 Guam Code Annotated is**
6 **hereby amended to read:**

7 **"§ 3206. Same: Pledge of Allegiance to Flag.**

8 It shall be the duty of the Board to adopt and place into effect for the
9 public schools of Guam, rules and regulations requiring students, at a
10 suitable time during school sessions, to pledge allegiance to the United
11 States flag and to the nation for which it stands. Such pledge shall be in the
12 following words:

13 'I pledge allegiance to the flag of the United States of America and to
14 the Republic for which it stands; one nation under God, indivisible, with
15 liberty and justice for all.'

16 It shall also be the duty of the Board to adopt and place into effect for
17 the public schools of Guam, rules and regulations requiring students, at a
18 suitable time during school sessions, to recite the Guam Pledge, the *Inafresi*
19 and to sing the Guam Hymn in the *Chamorro* language."