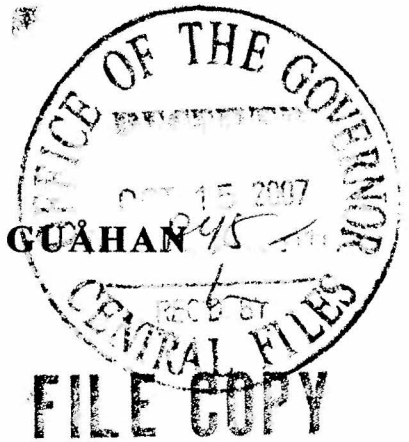




**MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN**  
TWENTY-NINTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910



October 15, 2007

The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*

Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 32(EC), 39(EC), 41(EC), 49(EC), 102(LS), 106(EC), 130(EC), 139(EC); and Substitute Bill Nos. 33(EC), 65(EC), 78(LS), 105(EC), 109(EC), 115(EC), 116(EC) & 132(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on October 10, 2007.

Sincerely,

RAY TENORIO

Senator and Secretary of the Legislature

Enclosures (16)

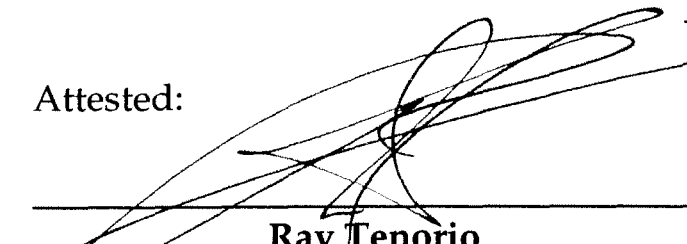
**I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN**  
**2007 (FIRST) Regular Session**

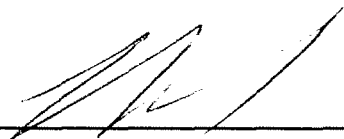
**FILE COPY**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

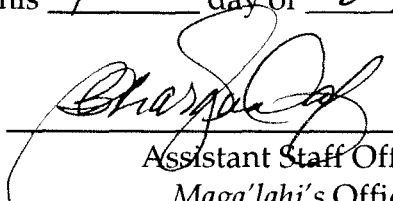
This is to certify that Substitute Bill No. 115 (EC), "AN ACT TO AMEND §§3108, 3111, 3115, 3117 (a) AND 3119, AND TO ADD A NEW §3111.1, ALL OF CHAPTER 3, TITLE 17 GCA, RELATIVE TO THE GUAM EDUCATION POLICY BOARD; AND TO AMEND CHAPTER 11 OF TITLE 17 GCA, RELATIVE TO THE EDUCATION SURUHANU," was on the 10<sup>th</sup> day of October 2007, duly and regularly passed.

Attested:

  
\_\_\_\_\_  
**Ray Tenorio**  
**Senator and Secretary of the Legislature**

  
\_\_\_\_\_  
**Edward J.B. Calvo**  
**Acting Speaker**

.....  
This Act was received by *I Maga'lahaen Guåhan* this 15<sup>th</sup> day of Oct, 2007, at 1245 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
**FELIX P. CAMACHO**  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**I MINA' BENTE NUEBI NA LIHESLATURAN GUÁHAN**  
**2007 (FIRST) Regular Session**

**Bill No. 115 (EC)**

As substituted by the Committee on  
Education, General & Omnibus Affairs  
and amended on the Floor.

Introduced by:

Judith Paulette Guthertz  
Frank F. Blas, Jr.  
Edward J.B. Calvo  
James V. Espaldon  
Mark Forbes  
Frank T. Ishizaki  
J. A. Lujan  
Tina Rose Muña Barnes  
A. B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
David L.G. Shimizu  
Ray Tenorio  
A. R. Unpingco  
J. T. Won Pat

**AN ACT TO AMEND §§3108, 3111, 3115, 3117 (a) AND  
3119, AND TO ADD A NEW §3111.1, ALL OF CHAPTER  
3, TITLE 17 GCA, RELATIVE TO THE GUAM  
EDUCATION POLICY BOARD; AND TO AMEND  
CHAPTER 11 OF TITLE 17 GCA, RELATIVE TO THE  
EDUCATION SURUHANU.**

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

**Section 1. § 3108 of Chapter 3 of Title 17 Guam Code Annotated is  
*amended to read:***

**“§ 3108. Attorney for the Board.** The Board is authorized and  
may employ an attorney to assist and represent it during any meetings and in  
all civil matters. The Board *shall* set the terms and conditions for

1 employment of the attorney or law firm. The Board *shall* determine whether  
2 the appointment is a part-time, unclassified employee or an independent  
3 consultant. The Board is authorized to expend funds for hiring an attorney  
4 or procuring legal services.”

5 **Section 2. § 3111 of Chapter 3 of Title 17 Guam Code Annotated is**  
6 ***amended to read:***

7 “§ 3111. **Guam Education Policy Board.** There is hereby created  
8 a Guam Education Policy Board (Board). The Board *shall* consist of at least  
9 eleven (11) members as follows:

10 (a) Nine (9) District Elected Voting Members. Beginning with  
11 the 2008 General Election, nine (9) members of the Board *shall* be  
12 elected through district-wide elections in a General Election and in the  
13 manner described in § 3111.1. Notwithstanding any other provision  
14 of law, *except* for the student member and non-voting members,  
15 unclassified and contracted employees of the Executive and  
16 Legislative Branches and all employees of the Guam Public School  
17 System are *not* eligible to run. The candidates must be at least  
18 twenty-five (25) years old, and at least two (2) year resident of Guam,  
19 and a resident and domiciliary in that District the candidate will be  
20 representing for at least two (2) years immediately preceding the date  
21 on which the member takes office and continuing throughout the term.  
22 All candidates for the Board must be citizens of the United States of  
23 America.

24 (b) One (1) Student Non-Voting Member. One (1) student  
25 member of the Board *shall* be elected by the Island-wide Board of  
26 Governing Students.

1 (c) Appointed Non-Voting Member. The Board *shall* appoint  
2 one (1) non-voting member from a list of *not less than* three (3)  
3 nominees by the exclusive bargaining unit which represents teachers  
4 and other employees in the GPSS. The non-voting member *shall* serve  
5 a term of one (1) year.

6 (d) Additional Non-voting members. The Board may add  
7 nonvoting, ex-officio members as needed. The terms for such ex-  
8 officio members *shall* be determined by the Board.

9 (e) Votes needed for Action. Unless expressly provided for  
10 elsewhere by public law, actions of the Board are carried by a vote of  
11 five (5) voting members.

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

14 **Section 3. § 3115 of Chapter 3 of Title 17 Guam Code Annotated is**  
15 ***amended to read:***

16 “§ 3115. **Same: Term of Office of Elected Members.** The  
17 members of the Board *shall* be elected by district at the next General  
18 Election or Special Election. The terms of office of Board members elected  
19 pursuant to this Section *shall* commence at 12:00 noon on the first Monday  
20 in January immediately following the date they were elected and terminate at  
21 11:59 a.m. on the first Monday in January four (4) years hence, except as  
22 provided in § 3111.1 of this Chapter.”

23 **Section 4. § 3117 (a) of Chapter 3 of Title 17 Guam Code Annotated, as**  
24 **contained in P.L. 28-150:V:36 and 38 (Sept. 30, 2006), to take effect on the**  
25 **election date of 2008, is *amended* to read:**

26 “§ 3117. **Same: Vacancies.** (a) Any vacancies, including initial  
27 vacancies, of elected member positions occurring on the Board *shall* be

1 filled forthwith by appointment of the unsuccessful candidate from the same  
2 district in which the vacancy occurs who received the next highest number  
3 of votes in the board election, *provided* that the individual received greater  
4 than fifty percent (50%) of the number of votes received by the declared  
5 winner of that seat. In the event that the individual declines or there is no  
6 candidate meeting the criteria in this § 3117 (a), *I Maga'lahen Guåhan* (the  
7 Governor of Guam) *shall* appoint a member for the term or remaining term  
8 of office, subject to confirmation by *I Liheslaturan Guåhan* (the Guam  
9 Legislature). Vacancies, including initial vacancies, *shall* be filled by a  
10 person from the same district(s) in which the vacancies occur.”

11 **Section 5. § 3119 of Chapter 3 of Title 17 Guam Code Annotated is**  
12 ***amended to read:***

13 “§ 3119. **Same: Officers of the Board.** Officers of the Board *shall*  
14 include the Chairperson and Vice-Chairperson, and such other positions  
15 which the Board deems necessary to effectively carry out its responsibilities.  
16 Such Board officers upon election *shall* serve for a term of one (1) year.  
17 Board officers *shall* be elected by a majority vote of the members of the  
18 Board during one (1) of the Board’s meetings held in January of each year.  
19 Members may serve as Chairperson for multiple terms, except that no person  
20 may serve as Chairperson for more than two (2) consecutive terms at a  
21 time.”

22 **Section 6.** A new § 3111.1 of Chapter 3 of Title 17 Guam Code Annotated  
23 ***is added to read:***

24 “§ 3111.1 **Provision for Staggered Elections.** (a) *Except* as  
25 provided in Subsection (b) of this § 3111.1, each member of the Board *shall*  
26 be elected to serve a term of four (4) years, commencing at 12:00 noon on  
27 the first Monday in January following their election.

1 (b) At the election for members of the Board held at the General  
2 Election in November 2008, and only at this election, four (4) candidates,  
3 one (1) from each of the four (4) districts, *shall* each serve four (4) year  
4 terms, and five (5) candidates *shall* each serve two (2) year terms as follows:

5 (1) Upon the Guam Election Commission's determination of  
6 the nine (9) successful candidates, the successful candidate in each  
7 district who received the highest number of votes *shall* be certified to  
8 serve a four (4) year term. The remaining successful candidates in  
9 each district *shall* be certified to serve two (2) year terms."

10 **Section 7.** Chapter 11 of Title 17 Guam Code Annotated is hereby  
11 *amended* to read as follows:

12 "CHAPTER 11  
13 OFFICE OF THE ADEQUATE EDUCATION  
14 SURUHANU (OMBUDSMAN)

15 **§1100. Creation of Office.** The Office of the Adequate Education  
16 *Suruhanu* (hereinafter referred to as the 'Education *Suruhanu*') is hereby  
17 established as an independent entity of the government of Guam. It is  
18 operationally independent from *I Maga'lahaen Guåhan*, *I Liheslaturan*  
19 *Guåhan*, the Guam Public School System (GPSS) and the Guam Education  
20 Policy Board (Board). *I Maga'lahaen Guåhan*, *I Liheslaturan Guåhan*,  
21 GPSS or the Board shall not prevent, impair, or prohibit the Education  
22 *Suruhanu* from initiating, carrying out, or completing his duties. The  
23 Education *Suruhanu shall* be the head of the office.

24 **§1101. Qualifications.** (a) The Education *Suruhanu* shall be a  
25 person of judgment, objectivity and integrity who can analyze problems of  
26 law, administration and public policy.

27 (b) No Education *Suruhanu shall*:

1 (1) engage in political party activities;

2 (2) be a candidate for or hold either elective or  
3 appointive public office;

4 (3) engage in any other occupation, business or  
5 profession; or

6 (4) be a former or current employee of GPSS or be a  
7 member of the Board within two (2) years of that individual's  
8 period of service.

9 (c) The Education *Suruhanu* shall have the following  
10 educational/professional requirements:

11 (1) be a citizen of the United States and a resident of  
12 Guam;

13 (2) be an active member in good standing of the Guam  
14 Bar Association on Guam for at least two (2) years;

15 (3) not have been convicted of a felony; and

16 (4) not have been suspended from the practice of law in  
17 any jurisdiction for violation of ethical rules governing the  
18 practice of attorneys.

19 **§1102. Removal and Termination.** (a) The Education *Suruhanu*  
20 may only be removed from office for cause as described in Subsection (b) of  
21 this Section within the three (3) year appointment by *I Maga'lahaen Guåhan*,  
22 who must then report the reasons for the removal to *I Liheslaturan Guåhan*  
23 within twenty-four (24) hours.

24 (b) Only the following are cause for termination:

25 (1) holding financial interests that conflict with the  
26 conscientious performance of his duties;



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

4 (3) solicitation *or* acceptance of any item of value from any  
5 person *or* entity seeking official action from, doing business with, *or*  
6 conducting activities regulated by GPSS, *or* from persons whose  
7 financial interests may be substantially affected by the performance of  
8 the Education *Suruhanu* 's duties *or* the functions of GPSS;

9 (4) knowingly making commitments *or* promises that purport  
10 to bind GPSS, except as permitted by law;

11 (5) using his position for his private gain *or* that of others;

12 (6) failing to disclose waste, abuse and corruption to the  
13 appropriate authorities;

14 (7) failing to respect the rights and privacy of others and using  
15 his position *or* authority to injure another person for personal reasons  
16 *or* malicious purposes;

17 (8) committing fraud *or* misrepresentation in securing his  
18 appointment;

19 (9) refusal *or* failure to perform duties mandated by law;

20 (10) unlawful use, possession *or* sale of illegal drugs and  
21 alcohol;

22 (11) criminal acts involving moral turpitude;

23 (12) political activity prohibited by law;

24 (13) misuse, misappropriation or theft of government property  
25 *or* funds;

26 (14) prohibited acts of discrimination, including sexual  
27 harassment; *or*

1 (15) abandonment of his position.

2 **§1103. Appointment.** I Maga'lahaen *Guåhan* shall appoint the  
3 Education *Suruhanu* with the advice and consent of *I Liheslaturan Guåhan*.  
4 The Education *Suruhanu* shall be appointed for a term of three (3) years.

5 **§1104. Salary.** The salary of the Education *Suruhanu* shall be at  
6 the rate of Eighty Thousand dollars (\$80,000.00) per annum. The Education  
7 *Suruhanu's* salary shall not be reduced during his term of office except as  
8 part of a government-wide reduction of salaries of all elected officials and  
9 appointed officers of the government of Guam. The Education *Suruhanu*  
10 may participate in any employee benefit or retirement plan available to  
11 government of Guam employees.

12 **§1105. Powers.** The Education *Suruhanu shall* have the  
13 following powers:

14 (a) To investigate any complaints of a person pursuant to  
15 Public Law 28-45, 'Every Child is Entitled to an Adequate Public  
16 Education Act'.

17 (b) To enact, amend and rescind rules and regulations,  
18 pursuant to Title 5 GCA Chapter 9 (Administrative Adjudication  
19 Law), and in consultation and with the approval of *I Liheslaturan*  
20 *Guåhan*, required for the discharge of his duties, including  
21 procedures for receiving and processing complaints, conducting  
22 investigations and reporting his findings, provided that he *shall* not  
23 charge fees for the submission *or* investigation of complaints.

24 (c) To examine the records and documents privileged from  
25 inspection because of their confidential nature, but only after a  
26 confidentiality agreement has been executed between the  
27 Superintendent of Education and the Education *Suruhanu*.

1 (d) To enter and inspect without notice the premises of any  
2 GPSS school, office, or facility.

3 (e) To subpoena any employee or agent of the government of  
4 Guam to appear and give sworn testimony or to produce documentary  
5 or other evidence that is material to an inquiry.

6 (f) To administer oaths and affirmations to witnesses.

7 (g) To undertake, participate in *or* cooperate with persons and  
8 agencies in such conferences, inquiries, meetings *or* studies as might  
9 improve compliance with Public Law 28-45.

10 (h) To obtain such information and make such inquiries from  
11 any agency *or* person as required to discharge his duties.

12 (i) To maintain confidentiality with respect to all matters and  
13 the identities of the complainants *or* witnesses coming before him.

14 (j) To strengthen procedures and practices that lessen the risk  
15 of objectionable administrative acts.

16 (k) To investigate, on complaint of a person of any actions or  
17 inactions not included in the “Fourteen (14) points” of Public Law 28-  
18 45, but may however impede the delivery of an adequate public  
19 education.

20 **§1106. Rights of Complainant - Communication with**  
21 **Complainant.**

22 (a) When the Education *Suruhanu* receives a complaint, he  
23 *shall* so inform the complainant in writing that the complaint will be  
24 investigated within twenty (20) working days and *shall* specify the  
25 date in which the investigation shall be completed.

26 (b) The Education *Suruhanu shall*, within five (5) days after  
27 completing an investigation, inform the complainant of his conclusion

1            *or* recommendation in writing and, *if* appropriate, any action taken *or*  
2            to be taken by the agency involved.

3            (c) If the complainant has not received the Education  
4            *Suruhanu*'s conclusion or recommendation within ten (10) days of the  
5            completion date specified pursuant to sub part (a) the complainant  
6            may bring a mandamus action to compel the Education *Suruhanu* to  
7            perform.

8            **§1107. Investigation of Complaints.**

9            (a) The Education *Suruhanu shall* investigate every complaint  
10            alleging that an agency's action is:

11                    (1) contrary to *or* inconsistent with law, regulation *or*  
12                    agency practice;

13                    (2) based on mistaken facts *or* irrelevant considerations;

14                    (3) inadequately explained *or* justified when the reasons  
15                    for said action should have been revealed;

16                    (4) inefficiently performed; *or*

17                    (5) unreasonable, unfair *or* otherwise objectionable,  
18                    even though in accordance with law.

19            (b) The Education *Suruhanu* may decide *not* to investigate a  
20            complaint because:

21                    (1) the complainant should pursue another legal remedy,  
22                    provided that the Education *Suruhanu shall* instruct the  
23                    complainant in writing as to how to proceed;

24                    (2) the complaint is trivial, frivolous, vexatious *or* not  
25                    made in good faith;

26                    (3) the complaint is over one hundred twenty (120) days  
27                    old, since the act or inaction was alleged to have occurred; and

1                   (4) the Education *Suruhanu's* resources are insufficient  
2                   for adequate investigation, in which he *shall* notify the  
3                   complainant in writing and shall refer the complaint to the  
4                   proper legislative committee for investigation.

5                   (c) If the Education *Suruhanu* declines to investigate a  
6                   complaint, he may nevertheless review on his own initiative agency  
7                   actions not included in the complaint that come to his attention.

8                   (d) The Education *Suruhanu* shall have twenty (20) working  
9                   days to investigate a complaint filed in accordance with this Chapter.

10                  (e) If the Education *Suruhanu* declines to investigate a  
11                  complaint as described in subsection (b) of this Section, the Education  
12                  *Suruhanu* must then report the reasons for not investigating to *I*  
13                  *Maga'lalen Guåhan, I Liheslaturan Guåhan*, the Superintendent of  
14                  Education and the Board within forty-eight (48) hours.

15                  (f) The Education *Suruhanu* shall report criminal investigative  
16                  matters to the Guam Police Department and the Attorney General.

17                  **§1108. Reports.** The Education *Suruhanu* shall report monthly on  
18                  his activities to *I Maga'lalen Guåhan, I Liheslaturan Guåhan*, the  
19                  Superintendent of Education and the Guam Education Policy Board. The  
20                  monthly report shall be posted on *I Maga'lalen Guåhan's* website, *I*  
21                  *Liheslaturan Guåhan's* website and the Guam Public School System's  
22                  website. The report should include all complaints filed under this Chapter,  
23                  the issue of each complaint, the status of each complaint, and the conclusion  
24                  or recommendations by the Education *Suruhanu*.

25                  **§1109. Confidentiality.** The Education *Suruhanu* shall treat all  
26                  matters, including the identities of students, complainants, and individuals  
27                  from whom information is acquired, as confidential, except as necessary to

1 enable the Education *Suruhanu* to perform the duties of the office. Upon  
2 receipt of information that by law is confidential or privileged, the Education  
3 *Suruhanu* shall maintain the confidentiality of such information and shall not  
4 further disclose or disseminate the information except as provided by  
5 applicable local or federal law.

6 **§1110. Liability for Good Faith Performance - Privileged**  
7 **Communications.**

8 (a) The Education *Suruhanu* shall not be liable for good faith  
9 performance of responsibilities under this Chapter.

10 (b) No discriminatory, disciplinary, or retaliatory action may  
11 be taken against any student or employee of GPSS, the office of the  
12 Superintendent of Education, or the Guam Education Policy Board,  
13 for any communication made, or information given or disclosed, to  
14 aid the Education *Suruhanu* in carrying out his duties and  
15 responsibilities, unless the same was done without good faith or  
16 maliciously. This subsection is not intended to infringe upon the rights  
17 of the Guam Public School System to discipline, or terminate an  
18 employee for other reasons or to discipline a student for other reasons.

19 (c) All communications by the Education *Suruhanu* or the  
20 Education *Suruhanu's* staff or designee, if reasonably related to the  
21 Education *Suruhanu's* duties and responsibilities and done in good  
22 faith, are privileged and that privilege shall serve as a defense to any  
23 action in libel or slander.

24 **§1111. Relation to Other Laws.** This Chapter does not restrict or  
25 modify any other statute that creates other rights and procedures. The  
26 Education *Suruhanu* may act notwithstanding any provision in law that an  
27 administrative action shall be final or unappealable.

1           **§1112. Budget Requirements.** GPSS shall provide the Education  
2           *Suruhanu* with the resources needed, including clerical services and office  
3           space, to fulfill his duties. A budget request prepared by the Education  
4           *Suruhanu* shall be included in the annual GPSS budget submission.

5           **§1113. Severability.** If any part of this Chapter shall be declared  
6           invalid, all other parts shall remain in full force and effect; the provisions of  
7           this Chapter are declared to be severable.”

8           **Section 8.** From Dormant and Inactive Accounts and Unclaimed Funds  
9           identified and transferred by banks to the Treasurer of Guam pursuant to § 106119  
10          of Title 11 GCA, the sum of One Hundred Fifty Thousand Dollars (\$150,000) is  
11          appropriated to the Guam Public School System for the Office of Education  
12          *Suruhanu*.