



Office of the Governor of Guam

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2009 MAR - 5 AM 9:42

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

04 MAR 2009

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

30-09-0301

Office of the Speaker
Judith T. Won Pat, Ed. D.

Date 3/04/09
Time 4:40P
Received by [Signature]

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 248 (LS) AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 17, GUAM CODE ANNOTATED RELATIVE TO AUTHORIZE CHARTER SCHOOLS ON GUAM, which I signed into law on January 30, 2009 as Public Law 29-140.

Bill No. 248 (LS) is progress toward providing better educational establishments for our children. Through this law, various organizations, including non-profit organizations, will now be able to petition a Charter School Policy Board for authorization to operate a charter school. The creation of additional charter schools will provide quality choices that our people deserve.

Unfortunately, the bill does not provide funding to support its implementation. The Charter School Policy Board is tasked with extensive and complex duties and analysis that will require substantial time and resources. It may be a challenge to find suitable individuals to serve as board members and dedicate a considerable amount of their time without compensation or stipend. Besides compensating board members, a proposed solution would be to provide sufficient funding to engage consultants to assist the board in drafting policies and procedures and review applications to establish charter schools in an efficient and expedited manner.

I applaud the actions of *I Liheslatura*, most especially the author of Bill No. 251, the Honorable Judith Won Pat, in their effort to provide adequate education for our children and I look forward to the continued efforts of our public officials to ensuring the success of charter schools in Guam.

Sinseru yan Magåhet,

[Signature of Felix P. Camacho]

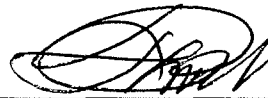
FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy of Bill

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

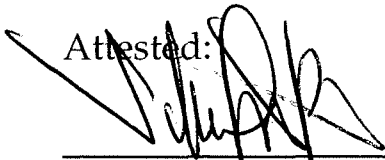
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 248 (LS), " AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING GUAM ACADEMY CHARTER SCHOOLS,"** was on the 30th day of December, 2008, duly and regularly passed.



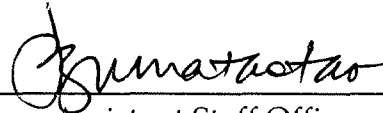
Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 31 day of Dec., 2008, at
3:10 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 30 JAN 2009

Public Law No. 29-140

I MINA'BENTE NUEBI NA LIHESLATURAN GUAHAN
2008 (SECOND) Regular Session

Bill No. 248 (LS)

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

Introduced by:

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

**AN ACT TO *ADD* A NEW CHAPTER 12 TO TITLE 17,
GUAM CODE ANNOTATED, RELATIVE TO
AUTHORIZING GUAM ACADEMY CHARTER
SCHOOLS.**

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

2 **Section 1.** A new Chapter 12 is *added* to Title 17, Guam Code Annotated,
3 to read as follows:

4 **“CHAPTER 12**

5 **GUAM ACADEMY CHARTER SCHOOLS ACT OF 2009**

1 **§12101. Short Title.** This Chapter *shall* be known and may be cited as the
2 “Guam Academy Charter School Act of 2009”.

3 **§12102. Purpose.** The Guam Academy Charter School Act of 2009 is
4 enacted to provide opportunities for teachers, parents, guardians, students and
5 community members to establish and maintain schools that operate independently
6 from the Guam Public School System as a method to:

- 7 (a) improve student learning;
- 8 (b) increase learning opportunities for all students, with special
9 emphasis on expanded learning experiences;
- 10 (c) encourage the use of different and innovative teaching methods;
- 11 (d) create new professional opportunities for teachers, including the
12 opportunity to be responsible for the learning program at the school site;
- 13 (e) provide parents, guardians and students with expanded choices
14 in the types of educational opportunities that are available within the public
15 school system; and
- 16 (f) hold the schools established under this Chapter accountable for
17 meeting measurable student educational standards.

18 **§12103. Definitions.**

- 19 (a) *Board* means the Guam Education Policy Board;
- 20 (b) *Academy Charter School* means schools acknowledged as
21 Charter Schools by the Guam Academy Charter Schools Council under
22 Chapter 12 of Title 17 GCA;
- 23 (c) *Chamorro Language Immersion Program* is a method of
24 teaching the *Chamorro* language. Using the *Chamorro* language as the
25 teaching tool, surrounding *or* immersing students in the *Chamorro* language
26 in class activities such as math, science, social studies, history, and other
27 class subjects.

1 (d) *Council* means the authorizing chartering entity known as the
2 Guam Academy Charter Schools Council.

3 (e) *Eligible applicant* means an individual, a group of individuals,
4 teachers, parents, guardians or a non-profit organization authorized under the
5 laws of Guam to do business; and

6 (f) *Trustees* means the Board of Trustees, the governing structure
7 of an Academy Charter School as set forth in the Academy's Charter.

8 **§12104. Process for Filing Charter Petitions.** (a) Existing public school.
9 An eligible applicant seeking to convert a public school into an Academy Charter
10 School:

11 (1) *shall* prepare a petition to establish an Academy Charter School
12 that meets the requirements of §12105 of this Chapter;

13 (2) *shall* provide a copy of the petition to:

14 (A) the parents and guardians of minor students attending the
15 existing public school;

16 (B) adult students attending the existing public school;

17 (C) employees of the existing public school;

18 (D) parents and guardians of minor students who attend the
19 school grade immediately lower than the first school grade
20 which is served by the public school which is the subject of the
21 conversion petition; and

22 (E) each Mayor which represents an area within the
23 attendance area of the public school which is the subject of the
24 conversion petition; and

25 (3) *shall* file the petition with the Council for approval after the
26 petition:

1 (A) is signed by *not less than* sixty percent (60%) of the sum
2 of:

3 (i) the total number of parents and guardians of minor
4 students attending the public school; and

5 (ii) the total number of adult students attending the
6 public school; and

7 (iii) the total number of full-time teachers currently
8 assigned to the public school.

9 (B) New School. An eligible applicant seeking to establish an
10 Academy Charter School, but *not* converting an existing public
11 school, *shall* file with the Council for approval a petition to establish
12 an Academy Charter School that meets the requirements of §12105 of
13 this Chapter.

14 (C) Limitations on multiple petitions. An eligible applicant
15 may *not* file *more than* one (1) petition to establish an Academy
16 Charter School during a calendar year.

17 (D) A petition to establish an Academy Charter School, *or* to
18 convert a public school, is a public document.

19 **§12105. Contents of Petition.** A petition under §12104 of this Chapter to
20 establish an Academy Charter School *shall* include the following:

21 (a) a statement defining the mission and goals of the proposed
22 Academy Charter School and the manner in which the Academy Charter
23 School will conduct any district-wide assessments required by the Guam
24 Public School System;

25 (b) a statement of the need for the proposed Academy Charter
26 School;

1 (c) a description of the proposed instructional goals and methods
2 for the proposed Academy Charter School, which *shall* include, at a
3 minimum:

4 (1) the area of focus of the proposed Academy Charter
5 School, such as mathematics, science, the fine arts, language,
6 technology, agriculture, vocational training, *Chamorro* language
7 immersion_program, high school academy, information technology *or*
8 criminal justice, *if* the Academy Charter School will have such a
9 focus;

10 (2) the methods that will be used, including classroom
11 technology, to provide students with the knowledge, proficiency, and
12 skills needed:

13 (A) to become nationally and internationally
14 competitive students and educated individuals in the Twenty-
15 first (21st) century; and

16 (B) to perform competitively on any district-wide
17 assessments; and

18 (3) the methods that will be used to improve student self-
19 motivation, classroom instruction, and learning for all students;

20 (d) a description of the scope and size of the proposed Academy
21 Charter School's program that will enable students to successfully achieve
22 the goals established by the Academy Charter School, including, the grade
23 levels to be served by the Academy Charter School and the projected and
24 maximum enrollment of each grade level;

25 (e) a description of the plan for evaluating student academic
26 achievement at the proposed Academy Charter School and the procedures
27 for remedial action that will be used by the Academy Charter School when

1 the academic achievement of a student falls below the expectations of the
2 Academy Charter School;

3 (f) an operating budget for the first two (2) years of the proposed
4 Academy Charter School that is based on anticipated enrollment;

5 (g) a description of the proposed rules and policies for governance
6 and operation of the proposed Academy Charter School;

7 (h) a description of the method for conducting annual audits of the
8 financial, administrative, and programmatic operations of the proposed
9 Academy Charter School;

10 (i) an identification of a facility for the proposed Academy Charter
11 School, including a description of the site where the school will be located;

12 (j) the names and addresses of the members of the proposed
13 interim Board of Trustees and the procedures for selecting trustees;

14 (k) a description of the student enrollment, admission process,
15 suspension, expulsion, and other disciplinary policies and procedures of the
16 proposed Academy Charter School, and the criteria for making decisions in
17 such areas;

18 (l) a description of the procedures the proposed Academy Charter
19 School plans to follow to ensure the health and safety of students,
20 employees, and guests of the school and to comply with applicable health
21 and safety laws, and all applicable civil rights statutes and regulations of the
22 Federal Government and the government of Guam;

23 (m) an explanation of the qualifications that will be required of
24 employees of the proposed Academy Charter School;

25 (n) a description of how parents, guardians, teachers, and other
26 members of the community have been involved in the design and will

1 continue to be involved in the implementation of the proposed Academy
2 Charter School;

3 (o) a description of how parents, guardians, teachers and staff will
4 be provided an orientation and other training to ensure their effective
5 participation in the operation of the proposed Academy Charter School;

6 (p) an assurance the proposed Academy Charter School will seek,
7 obtain, and maintain accreditation from an accrediting body deemed
8 appropriate by the Council;

9 (q) an explanation of the relationship that will exist between the
10 Academy Charter School and the school's employees; and

11 (r) a description of how the proposed Academy Charter School
12 plans to meet the transportation and food service needs of its students; and

13 (s) a description of the facilities the Academy Charter School plans
14 to use.

15 **§12106. Process for Approving *or* Denying Charter School Petitions.**

16 (a) Schedule. An eligible applicant seeking to establish an
17 Academy Charter School *shall* submit a petition pursuant to §12105 of this
18 Chapter to the Council *no later than* the first Monday of January. However,
19 it is recommended that an eligible applicant consult with the Council prior to
20 submitting the petition. All petitions submitted *no later than* the first
21 Monday in January *shall* be for the following school year.

22 (b) Public Hearing. *Not later than* forty-five (45) days after a
23 petition to establish an Academy Charter School is filed with the Council,
24 the Council *shall* hold a public hearing on the petition to gather the
25 information that is necessary for the Council to make the decision to approve
26 *or* deny the petition.

1 (c) Notice. Ten (10) days before the scheduled time of the public
2 hearing on a petition to establish an Academy Charter School, the Council
3 *shall*:

4 (1) send a written notification of the public hearing to the
5 eligible applicant;

6 (2) post notice of the public hearing at a place convenient to
7 the public in the administrative office, cafeteria, and the
8 classrooms of the public school which is subject to be converted
9 into an Academy Charter School;

10 (3) post notice of the public hearing at a place convenient to
11 the public in the administrative office, cafeteria and the
12 classrooms of the public school which is school grade lower than
13 the first school grade which is served by the public school which
14 is subject to conversion; and

15 (4) post notice of the public hearing at a place convenient to
16 the public in the Mayor's office which represents an area within
17 the attendance area of the public school which is the subject of the
18 conversion petition.

19 (d) The Council *shall* approve a petition to establish an Academy
20 Charter School, *if*:

21 (1) the Council determines that the petition satisfies the
22 requirements of this Chapter;

23 (2) the eligible applicant who filed the petition agrees to
24 satisfy any condition *or* requirement, consistent with this Chapter and
25 other applicable law that is set forth in writing by the Council as an
26 amendment to the petition;

1 (3) the Council determines that the Academy Charter School
2 has the ability to meet the educational objectives outlined in the
3 petition; and

4 (4) the approval will *not* cause the Council to *exceed* a limit
5 under subsection (g) of this Section.

6 (e) The Council *shall* approve *or* deny a petition to establish an
7 Academy Charter School *not later than* thirty (30) days after the conclusion
8 of the public hearing on the petition.

9 (f) Denial explanation. Written notice of the council's action *shall*
10 be sent to the eligible applicant. *If* the petition is *not* approved, the reasons
11 for the denial and suggested remedial measures, *if any, shall* be clearly stated
12 in the notice sent by the council to the eligible applicant. *If* the petition is
13 *not* approved, the eligible applicant may amend the petition to address
14 objections and any suggested remedial measures and resubmit the petition to
15 the Council. The Council *shall* approve *or* disapprove the resubmitted
16 petition within twenty (20) days after receiving it. *If* the petition is *not*
17 approved, the eligible applicant *may* appeal the decision of the Council to the
18 Board.

19 (g) The total number of Academy Charter Schools operating on
20 Guam under this Chapter at any one time *shall not exceed* seven (7). At
21 least two (2) Academy Charter School *shall* be an elementary school. At
22 least one (1) *shall* be a middle school. At least one (1) high school. *No*
23 *more than* three (3) non-converted public schools *shall* be authorized.

24 **§12107. Duties and Powers, and other Requirements, of Charter**
25 **Schools.**

26 (a) An Academy Charter School *shall* comply with all of the terms
27 and provisions of its Charter.

1 (b) An Academy Charter School *shall* be subject to all federal and
2 state laws and constitutional provisions prohibiting discrimination on the
3 basis of disability, race creed, color, gender, national origin, religion,
4 ancestry *or* need for special education services.

5 (c) Each power conferred upon an Academy Charter School under
6 this Chapter can only be used for the *sole* purpose of operating the Academy
7 Charter School. An Academy Charter school *shall* have the following
8 powers:

9 (1) to adopt a name and corporate seal, but only *if* the name
10 selected includes the words ‘Academy Charter School’;

11 (2) to acquire real property for use as the Academy Charter
12 School's facilities, from public *or* private sources, but Academy
13 Charter Schools *shall not* have the power to acquire property by
14 eminent domain;

15 (3) to receive and disburse funds for Academy Charter
16 School purposes;

17 (4) to secure appropriate insurance and to make contracts
18 and leases, including agreements to procure *or* purchase services,
19 equipment, and supplies;

20 (5) to incur debt in reasonable anticipation of the receipt of
21 funds from the general fund of the government of Guam *or* the receipt
22 of Federal or private funds;

23 (6) to solicit and accept any grants *or* gifts for the Academy
24 Charter School’s purposes, *if* the Academy Charter School:

25 (A) *Does not* accept any grants *or* gifts subject to any
26 condition contrary to law *or* contrary to its Charter; and

1 (B) Maintains, for financial reporting purposes,
2 separate accounts for grants *or* gifts;

3 (7) to be responsible for the Academy Charter School's
4 operation, including preparation of a budget and personnel matters;
5 and

6 (8) to sue and be sued in the Academy Charter School's own
7 name.

8 (d) An Academy Charter School *shall not* charge an application fee
9 and tuition.

10 (e) An Academy Charter School *may* impose reasonable fees or
11 otherwise require payment, at rates established by the Trustees of the school,
12 for any field trips *or* similar activities *not* funded in whole *or* part through
13 appropriation by *I Liheslaturan Guåhan*.

14 (f) An Academy Charter School *shall* exercise exclusive control
15 over its expenditures, administration, personnel, and instructional methods,
16 within the limitations imposed in this Chapter.

17 (g) An Academy Charter School *shall* be *exempt* from Guam
18 statutes, policies, rules, regulations, and collective bargaining agreements
19 established for the Guam public schools, *except* as otherwise provided in the
20 Academy's Charter *or* this Chapter.

21 (h) An Academy Charter School *shall* comply with all federal and
22 Guam health and safety requirements applicable to public schools.

23 (i) An Academy Charter School *shall* be governed by the Trustees
24 in a manner consistent with the Charter granted to the school and the
25 provisions of this Chapter.

1 (j) No employee of the Guam Public School System *shall* be
2 required to accept employment with, *or* be assigned to, an Academy Charter
3 School.

4 (k) No student enrolled in a public school *shall* be required to
5 attend an Academy Charter School;

6 (l) An Academy Charter School *shall not* levy taxes *or* issue
7 bonds.

8 (m) An Academy Charter School seeking to revise its Charter *shall*
9 prepare a petition for approval of the revision and file the petition with the
10 Council. The provisions of §12105 of this Chapter *shall* apply to such a
11 petition in the same manner as such provisions apply to a petition to
12 establish an Academy Charter School.

13 (n) An Academy Charter School *shall* submit an annual report *no*
14 *later than* thirty (30) days after the end of the fiscal year to the Council, the
15 Superintendent of Education, and the Board. The Academy Charter School
16 *shall* permit the public to review any such report upon request. A report
17 *shall* include the following data:

18 (1) a report on the extent to which the school is meeting its
19 mission and goals as stated in the petition for the Academy Charter
20 School;

21 (2) student performance on any district-wide assessments;

22 (3) grade advancement for students enrolled in the Academy
23 Charter School;

24 (4) graduation rates, college admission test scores, and
25 college admission rates, *if* applicable;

26 (5) types and amounts of parental involvement;

27 (6) official student enrollment;

- 1 (7) average daily attendance;
- 2 (8) annual financial audit and subsequent fiscal year annual
3 financial audits, a financial statement audited by the Public Auditor;
- 4 (9) a report on school staff indicating the qualifications and
5 responsibilities of such staff; and
- 6 (10) a list of all donors and grantors that have contributed
7 monetary *or* in-kind donations having a value equal to *or exceeding*
8 Five Hundred Dollars (\$500) during the year that is the subject of the
9 report.

10 (A) Data described in items (1) through (8) of this
11 subsection *shall not* identify the individuals to whom the data
12 pertain.

13 (n) An Academy Charter School *shall* provide to the Guam Public
14 School System student enrollment data.

15 (o) An Academy Charter School *shall* establish a formal complaint
16 resolution process.

17 (p) An Academy Charter School *shall* provide a program of
18 education, which *shall* include any grade *or* grades from kindergarten
19 through grade twelve (12).

20 (q) An Academy Charter School *shall* be nonsectarian and *shall not*
21 be affiliated with a sectarian school *or* religious institution.

22 (r) An Academy Charter School *shall not* be home based.

23 (s) An Academy Charter School *shall not* be converted from any
24 existing private *or* parochial school.

25 (t) An Academy Charter School *shall* initiate the process for
26 accreditation within the first one hundred twenty (120) days of
27 opening and attain accreditation within five (5) years of opening.

1 (u) An Academy Charter School *shall not* hire a for-profit
2 management company to operate the school.

3 (v) An Academy Charter School *shall* provide instruction each year
4 for at least the same number of days required of the Guam Public
5 School System.

6 (w) An Academy Charter School, and its incorporators, Trustees,
7 officers, employees, and volunteers, *shall* be immune from civil
8 liability, both personally and professionally, for any act *or* omission
9 within the scope of their official duties unless the act *or* omission:

10 (1) constitutes gross negligence;

11 (2) constitutes an intentional tort; *or*

12 (3) is criminal in nature.

13 (x) Upon termination of the Charter, all assets of the Academy
14 Charter School *shall* revert to the Guam Public School System.

15 **§12108. Board of Trustees of a Charter School.** (a) There is established
16 the Board of Trustees. The Trustees of an Academy Charter School *shall* be
17 elected *or* selected pursuant to the Charter granted to the Academy Charter School.
18 The Board of Trustees *shall* consist of *not less than* five (5) members and *not more*
19 *than* nine (9) members. At least one (1) member *shall* be parent *or* guardian of a
20 student attending the Academy Charter School. At least one (1) member *shall* be
21 from the general public with an accounting *or* finance background. The Principal
22 of the Academy Charter School *shall* be a non-voting member.

23 (b) In the case of the first Trustees of an Academy Charter School to be
24 elected *or* selected after the date on which the school is granted a Charter, the
25 election *or* selection of the members under subsection (a) of this Section *shall*
26 occur on the earliest practicable date after classes at the school have commenced.
27 Until such date, any other members who have been elected *or* selected *shall* serve

1 as interim Trustees. Such an interim Board of Trustees may exercise all of the
2 powers, and *shall* be subject to all of the duties, of a Board of Trustees.

3 (c) The Trustees of an Academy Charter School *shall* be fiduciaries of the
4 school and *shall* set overall policy for the school. The Trustees *may* make final
5 decisions on matters related to the operation of the school, consistent with the
6 Charter granted to the school, this Chapter, and other applicable law.

7 (d) Meetings held by the Board of Trustees *shall* be in compliance with
8 the Open Government Law of Guam.

9 **§12109. Academy Charter Schools; Admission Requirements.** (a) An
10 Academy Charter School *shall* enroll all students who submit a timely application,
11 unless the number of applications exceeds the capacity of a program, class, grade
12 level *or* building. An Academy Charter School *shall* give enrollment preference to
13 students returning to the Academy Charter School in the second *or* any subsequent
14 year of its operation and to siblings of students already enrolled in the Academy
15 Charter School. *If* capacity is insufficient to enroll all students who submit a
16 timely application, the Academy Charter School *shall* select students through an
17 equitable selection process such as a lottery. A public school converted to an
18 Academy Charter school *shall* give enrollment preference to students attending the
19 public school prior to conversion and students who reside within the former
20 attendance zone of that converted public school.

21 (b) *Except* as provided in subsection (c), an Academy Charter School
22 *shall not* limit admission based on ethnicity, national origin, gender, income level,
23 disabling condition, proficiency in the English language *or* athletic ability.

24 (c) An Academy Charter School *may* limit admission to students within a
25 given age group *or* grade level.

1 (d) An Academy Charter School *may* refuse to admit any student who has
2 been expelled from another educational institution *or* who is in the process of
3 being expelled from another educational institution.

4 (e) For schools preparing students for specific professions, admissions
5 may be limited to students who meet Bona Fide Occupational Qualifications
6 (BFOQ) selection criteria for the profession. *If* the profession exists in an
7 equivalent government position, the admissions criteria may be based on the
8 government of Guam's employment selection criteria.

9 **§12110. Employees.**

10 (a) An employee of an Academy Charter School who transferred
11 from the Guam Public School System *shall* be considered to be on three (3)
12 years leave of absence from the Guam Public School System. The leave of
13 absence *shall* commence on the initial date of employment at the Charter
14 School. Upon request of the employee, the three (3) years leave of absence
15 *shall* be renewed for up to two (2) additional one (1)-year periods, absent
16 good cause.

17 (b) The time during which an employee is on a leave of absence
18 *shall* be counted for service credit on the Guam Public School System's
19 salary schedule.

20 (c) During the period of time that an employee is on a leave of
21 absence from the Guam Public School System and is actively employed by
22 the Charter School, the Academy Charter School as the employer *shall*
23 continue the retirement *or* other benefits previously granted to the employee
24 make applicable retirement contributions.

25 (d) A leave of absence *shall not* be considered a break in service
26 with the Guam Public School System with which and employee was
27 previously employed.

1 (e) An employee who is on leave of absence and actively teaching
2 at an Academy Charter School and who submits a notice of intent to return
3 to a public school in which the employee was employed immediately prior
4 to employment in the Charter School *shall* be given employment
5 preference by the Guam Public School System *if*:

6 (1) the employee's notice of intent to return is submitted to
7 the Guam Public School System within three (3) years after ceasing
8 employment with the Guam Public School System; and

9 (2) *if* the employee is a teacher, a position for which the
10 teacher is certified *or* is qualified to become certified is available. *If*
11 the employee is *not* a teacher, a position for which the employee is
12 qualified is available.

13 (f) An employee who is on leave of absence and employed by an
14 Academy Charter school and is discharged *or* terminated for just cause by
15 the Academy Charter School may be considered discharged *or* terminated by
16 the Guam Public School System.

17 **§12111. Guam Academy Charter Schools Council; Membership;**
18 **Terms; Compensation.**

19 (a) There is established the Guam Academy Charter Schools
20 Council. The Council *shall* consist of seven (7) voting members and one
21 non-voting member and *shall* include:

22 (1) one (1) retired teacher;

23 (2) one (1) retired school administrator;

24 (3) two (2) members with accounting *or* finance
25 background;

26 (4) three (3) members from the general public; and

1 (5) the Superintendent of Education *or* the Superintendent's
2 designee who *shall* be a non-voting member.

3 (b) The voting members *shall* be appointed by *I Maga'laha*
4 *Guåhan*, subject to confirmation by *I Liheslatura*. The voting members *shall*
5 serve a term of three (3) years.

6 (c) The Council *shall* each year elect a chairman and other officers
7 as it deems necessary from among its membership.

8 (d) Members of the Council are *not* eligible to receive
9 compensation, *except* that they *shall* be paid Fifty Dollars (\$50) per meeting,
10 *not to exceed* One Hundred Fifty Dollars (\$150) per month.

11 (e) Clerical and administrative support *shall* be provided by the
12 Guam Public School System.

13 **§12112. Powers and Duties of the Guam Academy Charter School**
14 **Council.**

15 (a) The Council:

16 (1) *may* grant Academy School Charter status to qualifying
17 applicants pursuant to this Chapter;

18 (2) *shall* monitor the operations of each Academy Charter
19 School;

20 (3) *shall* ensure that each such Academy Charter School
21 complies with applicable laws and the provisions of the charter
22 granted to such school;

23 (4) *shall* monitor the progress of each school in meeting
24 student academic achievement expectations specified in the charter
25 granted to such Academy Charter School; and

1 (5) *shall* ensure that each Academy Charter School complies
2 with the annual reporting requirements, including, submission of the
3 audited financial statement.

4 (b) The Council *may* require an Academy Charter School to
5 produce any book, record, paper, *or* document, *if* the Council determines that
6 such production is necessary for the Council to carry out its functions under
7 this Chapter.

8 (c) The Council *shall* charge an eligible applicant *or* an Academy
9 Charter School a non-refundable application *or* renewal fee of Five Hundred
10 Dollars (\$500). All such application *or* renewal fees *shall* be deposited to
11 the Guam Academy Charter School Fund.

12 (d) The Council *shall* be immune from civil liability, both
13 personally and professionally, for any act *or* omission within the scope of
14 their official duties unless the act *or* omission:

- 15 (1) constitutes gross negligence;
- 16 (2) constitutes an intentional tort; or
- 17 (3) is criminal in nature.

18 (e) Meetings held by the Council *shall* be in compliance with the
19 Open Government Law of Guam.

20 **§12113. Academy Charter School Initial Term and Renewal.**

21 (a) A Charter granted to an Academy Charter School *shall* remain
22 in force for a five (5) year period.

23 (b) A Charter *may* be renewed an unlimited number of times, each
24 time for a five (5) year period.

25 (c) The Council *shall* review a Charter at least once every year to
26 determine whether the Charter should be revoked for the reasons described

1 in §12115 of this Chapter in accordance with the procedures for revocation
2 established under §12115 of this Chapter.

3 (d) In the case of an Academy Charter School that desires to renew
4 its charter, the Trustees of the school *shall* file an application to renew the
5 charter with the Council *not later than* one hundred twenty (120) days *nor*
6 earlier than three hundred sixty-five (365) days before the expiration of the
7 charter. The application *shall* contain the following:

8 (1) a report on the progress of the Academy Charter School
9 in achieving the goals, student academic achievement expectations,
10 and other terms of the approved Charter; and

11 (2) all audited financial statements for the Academy Charter
12 School for the preceding four (4) years, *if* applicable.

13 (e) The Council *shall* approve an application to renew the Charter
14 that is filed in accordance with subsection (b) of this Section, *except* that the
15 Council *shall not* approve such application *if* the Council determines that:

16 (1) the Academy Charter School committed a material
17 violation of applicable laws *or* a material violation of the conditions,
18 terms, standards, *or* procedures set forth in its Charter, including
19 violations relating to the education of children with disabilities; or

20 (2) the Academy Charter School failed to meet the goals and
21 student academic achievement expectations set forth in its Charter.

22 (f) In an application to renew a Charter filed by the Trustees in
23 accordance with this Chapter, the Council *shall* provide written notice to the
24 Trustees of the public hearing on the application *not later than* fifteen (15)
25 days after the date on which the Council received the application.

26 (g) *Not later than* thirty (30) days after the date on which the
27 Trustees receive a notice under subsection (e) of this Section, the Trustees

1 may request, in writing, a public hearing on the application before the
2 Council.

3 (h) Upon receiving a timely written request for a public hearing
4 under subsection (f) of this Section, the Council *shall* set a date and time for
5 the public hearing and *shall* provide notice of the date and time, as well as
6 the procedures to be followed at the public hearing, to the Trustees.

7 (i) A public hearing under this subsection *shall* take place *not later*
8 *than* thirty (30) days after the Council receives a timely written request for
9 the public hearing under subsection (f) of this Section.

10 (j) The Council *shall* render a final decision, in writing, on an
11 application to renew a Charter *not later than* thirty (30) days after the date
12 on which the public hearing is concluded.

13 (k) A decision *not* to renew the Charter of an Academy Charter
14 School *may* be appealed to the Board as described by §12115 of this
15 Chapter.

16 **§12114. Basis and Procedures for Academy Charter School Probation**
17 **or Revocation.**

18 (a) The Council may place an Academy Charter School on
19 probation *or* revoke the Academy Charter School's Charter *if* the Council
20 determines that the Academy Charter School:

21 (1) committed a violation of applicable law *or* material
22 violation of the conditions, terms, standards, *or* procedures set forth in
23 the Charter, including violations relating to the education of children
24 with disabilities;

25 (2) has failed to meet the goals and student academic
26 achievement expectations set forth in the Charter;

1 (3) has engaged in a pattern of non-adherence to generally
2 accepted accounting principles;

3 (4) has engaged in a pattern of fiscal mismanagement; *or*

4 (5) is *no* longer economically viable.

5 (b) Procedures for consideration of probation *or* revocation:

6 (1) The Council *shall* provide to the Trustees a written notice
7 stating the reasons for the probation of the Academy Charter School
8 *or* the revocation of the Academy Charter School's Charter. The
9 notice *shall* inform the Trustees of the right to have a public hearing.

10 (2) *Not later than* fifteen (15) days after the date on which
11 the Trustees receives a notice under (b)(1) of this Section, the Trustees
12 may request, in writing, a public hearing on the probation of the
13 Charter School *or* the revocation of the Academy Charter School's
14 Charter before the Council.

15 (3) Upon receiving a timely written request for a public
16 hearing under this Section, the Council *shall* set a date and time for
17 the public hearing and *shall* provide reasonable notice of the date and
18 time, as well as the procedures to be followed at the public hearing, to
19 the Trustees.

20 (4) A public hearing under this Section *shall* take place *not*
21 *later than* thirty (30) days upon written request for a public hearing
22 under this subsection.

23 (c) The Council *shall* render a final decision *no later than* thirty
24 (30) days after the conclusion of the public hearing. The vote of two-thirds
25 (2/3) of all the members of the Council *shall* be required to revoke the
26 Charter.

1 (d) The Council *may* place an Academy Charter School on
2 probation, rather than revoke its Charter, in order to allow for the
3 implementation of a remedial plan approved by the Council. *If* after ninety
4 (90) days, *or* such longer period as the Council may specify, said plan is
5 unsuccessful in remedying the problem *or* alleviating the causes of the
6 probation, the Council *shall* revoke the Charter.

7 (e) *If* the Council revokes a charter granted to an Academy Charter
8 School, the Guam Public School System shall manage the Academy Charter
9 School directly until alternative arrangements can be made for students at
10 the Academy Charter School.

11 (f) *If* the Academy Charter's School Charter is revoked, the
12 Trustees *may* appeal the decision of the Council to the Board.

13 **§12115. Appeal Process.** (a) The Board, upon receipt of a notice of appeal,
14 *shall* review the decision of the Council.

15 (b) An eligible applicant *or* the Trustees of an Academy Charter School
16 that wishes to appeal a decision of the Council concerning the denial, nonrenewal
17 *or* revocation of an Academy Charter School *shall* provide the Board with a notice
18 of appeal within thirty (30) days after the Council's decision. The eligible
19 applicant *or* Trustees of the Charter School bringing the appeal *shall* limit the
20 grounds of the appeal to the grounds for denial, nonrenewal *or* revocation specified
21 by the Council. The notice *shall* include a brief statement of the reasons the
22 eligible applicant *or* Trustees contends the Council's decision was in error. Within
23 thirty days (30) after receipt of the notice of appeal, the Board *shall* hold a public
24 hearing that may be held in the school district in which the proposed Academy
25 Charter School has applied for *or* at the current location of the Academy Charter
26 School. The Board *shall* review the decision of the Council and make its findings
27 within ten (10) days after the completion of the public hearing. *If* the Board finds

1 that the Council's decision was contrary to the best interests of the students, *or*
2 community, the Board *shall* reverse the decision of the Council. The decision of
3 the Board *shall* be final and *not* subject to appeal.

4 **§12116. Funding.** (a) The Trustees, in consultation with teachers and
5 administrators, *shall* determine the school's curriculum and develop the school's
6 annual budget. The Trustees of each Charter School *shall* submit to the Council a
7 copy of its budget for each fiscal year.

8 (b) The Council *shall* submit on a timely basis as required by the Board,
9 the budgets of an Academy Charter Schools to the Superintendent of Education.
10 The Superintendent of Education *shall* submit the budgets to the Board for
11 approval as part of the Guam Public School System Fiscal Year Budget.

12 (c) Following the appropriation of the Guam Public School System's
13 operating budget for the fiscal year, the amount approved by *I Liheslatura* for the
14 operation of each Academy Charter School *shall* be available for expenditure by
15 the Trustees of such Charter School for any lawful purpose without further
16 approval by the Superintendent of Education *or* the Board. In no case *shall* an
17 Academy Charter School expend *or* incur obligations in excess of its budget
18 request; provided, however, that a Academy Charter School *shall* be authorized to
19 spend federal grants and other funds received independent of the Guam Public
20 School System *not* accounted for in said Charter School's budget request without
21 prior approval from the Superintendent of Education *or* the Board.

22 (d) Notwithstanding any other provision of this Chapter, *no* capital
23 improvement funds *shall* be awarded to a non-converted public school for the
24 purpose of constructing, reconstructing *or* improving said school.

25 (e) Academy Charter Schools *shall* be funded as follows: the Charter
26 School *shall* receive a tuition amount from the General Fund equal to the number
27 of students enrolled at the Charter School for the upcoming school year, multiplied

1 by the per pupil cost. The Department of Administration is hereby authorized and
2 directed to deduct said Charter School tuition amount from the total General Fund
3 appropriation to the Guam Public School System. Specific to the Charter, any
4 reimbursement for special education *or* bilingual education costs between the
5 Guam Public School System and the Academy Charter School *shall* follow such
6 formula and mechanisms adopted in the Academy's Charter.

7 (f) A public school that converts into an Academy Charter School *shall*
8 retain the identical school budget appropriated prior to its conversion to the
9 following school year.

10 **§12117. Transportation.** Students attending an Academy Charter School
11 *shall* be provided transportation to the Charter School by the Department of Public
12 Works on the same terms and conditions as transportation is provided to children
13 attending other public schools. In providing such transportation, the Department of
14 Public Works *shall* accommodate the particular school day and school year of the
15 Charter School; provided, however, that in the event that the Department of Public
16 Works limits transportation for public school students, the Department of Public
17 Works *shall not* be required to provide transportation to any Academy Charter
18 School beyond said limitations.

19 **§12118. Academic Credits; Transfer.** *If* a student who was previously
20 enrolled in an Academy Charter School enrolls in a public school, the public
21 school *shall* accept credits earned by the student in courses *or* instructional
22 programs at the Academy Charter School in a uniform and consistent manner and
23 according to the same criteria that are used to accept academic credits from other
24 public schools.

25 **§12119. Guam Academy Charter School Fund.** There is hereby created,
26 separate and apart from other funds of the government of Guam, a fund known as
27 the 'Guam Academy Charter School Fund (Fund).' The Fund *shall not* be

1 commingled with any other fund, and *shall* be kept in a separate bank account and
2 administered by the Guam Academy Charter School Council for the operations of
3 the Guam Academy Charter School. Expenditures from the Fund *shall* be reported
4 quarterly to *I Liheslaturan Guåhan* and the Office of Public Auditor for the use of
5 the Fund.

6 **§12120.** All provisions of this Act *shall* expire on July 1, 2018, unless re-
7 enacted by *I Liheslaturan Guåhan* prior to expiration.

8 **§12121.** The Guam Academy Charter Schools Council *shall* recommend
9 changes to this Act to *I Liheslatura* within thirty (30) days of its first meeting at
10 which a quorum is present.”