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Education Suruhanu

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August 24, 2009

**MEMORANDUM**

TO: Superintendent of Education

FROM: Education Suruhanu

SUBJECT: Complaint - FBLG class without certified teacher

30-09-1034  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 8/24/09  
Time 4:22  
Received by [Signature]

Dear Dr. Bretania-Underwood:

My office received a complaint reporting that there is no certified teacher assigned to a language arts class in room 7-C at FBLG. (Please be advised that the Principal stated that there other classes at FBLG that do not presently have a certified teacher due to vacancies or teachers out on extended leave.) The complaint indicated that the language arts students of 7-C either sit in the hallway or report to the cafeteria. In addition, the complaint indicated that no instruction takes place for this class while the students sit in the cafeteria. The complaint also indicated that there has not been a teacher in the class since the beginning of the FY2009-2010 school year. The complaint further indicated that meetings have taken place with GDOE authorities and that the parent was informed that there are teachers available but that there is a paperwork hang up at GDOE causing the delay in placing a certified teacher in the class.

On or about August 20, 2009, I met with the School Principal concerning this matter and he stated that an initial request to fill such position including various other positions, was submitted to the Superintendent's office in early May 2009 and that a follow-up request was made in mid June 2009. The Principal informed me that the language arts students in class 7-C are currently being stationed in the cafeteria during the absence of a certified teacher and that school aides are assigned to monitor such students while in the cafeteria. Students not receiving instruction during scheduled class time cannot be tolerated. Although GDOE may be encountering certain shortcomings that may hinder or prevent GDOE in their efforts to fill any such vacant teaching position, P.L. 28-45 4 (12) (a) of the Every Child is Entitled to an Adequate Public Education Act (the Act) requires a certified teacher for every class. In addition, the Act does not currently provide for any exceptions to this requirement. Therefore, because the above-mentioned classroom does not presently have a certified teacher providing instruction to the students, GDOE is in violation of the Act.

I strongly recommend that GDOE take immediate action to ensure that a certified teacher is placed in the above-mentioned classroom in order to come into compliance with the Act. I also urge GDOE to quickly identify any available qualified individuals within GDOE and place any such individual into the classroom until a more permanent teacher can be provided.

Another issue that I would like to point out concerns the school possibly falling short of the recommended school officials and/or personnel necessary to adequately monitor students while on campus. Such a situation may be present itself where a school aide is assigned to cover a class where there is a vacant teaching position or where the assigned teacher may be absent or on extended leave. In such cases, there may potentially be two violations of the Act, the first is a violation for failing to provide a certified teacher in the class and the second violation presents a possible safety issue where

there may not be enough school officials/personnel to adequately monitor the students at critical times throughout the school day. As a result, in order to address these concerns, I strongly recommend that the school have polices and/or procedures in place to address the supervision of students on campus in the event the school encounters a shortage of staff for any given day. In addition, the Principal must ensure that school officials and/or personnel adhere to such policies and/or procedures. Further, I recommended that the school make reasonable efforts to ensure that students are being supervised throughout the school day, and, at a minimum, should station school officials/personnel in hallways during passing times, during breaks and lunch, and during any other school activities.

Please be advised that my office is required to inform the complaint in writing, of the action taken or to be taken to rectify the violation. Therefore, please submit to my office in writing, the action taken or to be taken by GDOE in order to place a certified teacher in the language arts class in room 7-C. In addition, please include the date of the corrective action already taken if any, or the date when corrective action is to be taken. Please submit such requested information to my office within 10 days of receipt of this correspondence.

Furthermore, please provide my office in writing, the action taken or to be taken to fill the other vacant teaching positions and/or the classes where the teacher may be out on extended leave. In addition, please provide my office a copy of FBLG's current policy and/or procedure concerning classroom and campus coverage in the event the school experiences a shortage of school officials/personnel and a copy of GDOE's current standard operating procedure or policy concerning Adequate Staffing Level for classroom and campus coverage in the event the school experiences a shortage of school officials/personnel. Please submit such requested information to my office as soon as possible.

Thank you for your attention to this matter. If you have any questions, please feel free to contact my office.

Respectfully Yours,



Dominic Terlaje

Cc:

Honorable Speaker Judith T. Won Pat, Ed.D., 30<sup>th</sup> Guam Legislature  
Deputy Superintendent, Educational Support and Community Learning  
Deputy Superintendent, Finance and Administration  
Ulric Mark, School Principal  
Fred Nishihira, Legal Counsel  
Chairperson, Guam Education Policy Board