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December 15, 2009

To: Superintendent of Education  
From: Education Suruhanu  
Subject: JQ San Miguel A/C compliant and various other 14 Point issues.

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Egm

Dear Dr. Bretania Underwood:

A. Air conditioning issues.

On December 11, 2009, my office received a complaint that a classroom at the JQ San Miguel Elementary School was without a working air conditioning unit. However, the caller did not identify the particular room at issue. On December 14, 2009 at approximately 9:00 a.m., my office conducted an investigation into the complaint and found the following four classrooms did not have any working air conditioning units:

- a. Room 6 has two A/C units, one A/C unit has not been working for over one year and the other A/C unit has not been working for approximately one month. The teacher has provided three floor fans in an effort to circulate the air;
- b. Room 33 has one A/C unit and it has not been working since mid October 2009; and
- c. Room 24 has two A/C units and both units have not been working for approximately one month.
- d. Room A-1 has two units and both units have not been working for approximately one month.

The teacher in each of the rooms listed above indicated that as the day goes on and the temperature outside gets warmer, the temperature in the classroom also gets warmer. The teacher who provided floor fans in the classroom also indicated that even with the three fans, the room becomes much warmer later in the morning and especially after lunch. In addition, during the course of the investigation, it was reported that the A/C unit in classroom 32 often freezes up requiring the unit to be shut off during class time thus affecting the air circulation in that classroom. Furthermore, when such A/C unit freezes up and begins to thaw, water splashes onto the classroom floor presenting a possible safety issue. Furthermore, the book room does not have a working air conditioning unit and although the book room is not a classroom, I recommend that such room be equipped with a working air conditioning unit in order to ensure that it is properly ventilated as proper ventilation may serve as a preventive measure to ensure that the books and other material in the room remain in good condition. Please be advised that the School Principal indicated that the A/C problems mentioned above have been reported to GDOE Maintenance Division.

Section 4 (12) (f) of Public Law 28-45, the Every Child is Entitled to an Adequate Public Education Act (the Act), requires air conditioned or properly ventilated classrooms in which the sensible air temperature is no greater than 78° F. In addition, § 4 (12) (l) of the Act requires that public schools provide a healthful, safe, and sanitary learning environment. Moreover, 26

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Hon. Pat, Ed. D.

GAR § 4707 of the Department of Public Health School Sanitation Code states that ventilation shall be adequate to provide proper circulation of needed air within a room by either windows or mechanical ventilators. In this case, classroom 6, 33, and 24 do not have a working air conditioning unit thus affecting the air circulation within such classrooms. Based on the above, GDOE is not in compliance with § 4 (12) (f) & (l) of the Act on the basis that classroom 6, 33, and 24 are not adequately ventilated. As such, I strongly recommend that GDOE address and rectify the A/C problems immediately in order to come into compliance with the Act and any applicable regulatory code. It is also important that such ventilation problems be addressed immediately to ensure that the students are in comfortable learning environment and to prevent any possible health issues related to high humidity and/or poor air circulation. If a comfortable temperature cannot be maintained and/or the ventilation cannot be improved in such classrooms, the affected class should be re-located to a more suitable environment.

B. Assigned certified teachers on long term leave.

It has come to my attention that approximately four certified teachers currently assigned to the school are on long term leave and each class is being covered by an individual who is not certified to teach at the elementary grade level. Three teachers are currently on medical leave and one teacher recently began maternity leave. One of the teachers has been on medical leave since October 2009 and the other two teachers have been on medical leave since December 2009. However, the date in which such teachers will return to work is not certain. In addition, the teacher who recently went on maternity leave is not scheduled to return to work until January 2010.

Public Law 28-45 § 4 (12) (a) states that there must be a certified teacher for every class in a ratio established by relevant collective bargaining agreements. In addition, Guam Education Policy Board (GEPB) Policy 1000.21 requires at the minimum, a bachelor's degree to teach at the Elementary grade level. GEPB policy 1000.21 also provides that any person wishing to teach at the Elementary grade level must possess one of the following certificates: 1) An Emergency Certificate; 2) A Provisional Certificate; 3) A Professional I Certificate; or 4) A Professional II Certificate. Moreover, § 7A.2. of the Agreement between the Guam Federation of Teachers and the Guam Education Policy Board for GPSS Teachers in part states that all teachers should be fully qualified and certified.

Because the individuals currently assigned to cover the classes for the teachers who are on long term leave are not certified teachers, GDOE is not in compliance with the Act. As such, I strongly recommend that GDOE take immediate action to ensure that a certified teacher is assigned to any such class where the teacher is on long term leave. Such assignment is necessary in order to come into compliance with the Act. Please be advised that the Act does not provide for any exceptions to having a certified teacher in every class. I also urge GDOE to quickly identify any available qualified individuals within GDOE and place any such individual into the classroom until the return of the assigned teacher.

C. Fire extinguishers annual service date expired.

During my visit to the school, it was discovered that the annual service date for many of the fire extinguishers on campus was expired. The annual service date identified on the tag or sticker affixed to many of the fire extinguishers was punched or marked May 2008. Such tag or sticker indicates that the fire extinguisher should be re-serviced 12 months after the punched or marked date. Section 4 (12) (l) of the Act requires public schools to provide a healthful, safe, and sanitary environment. In addition, according to a GFD representative, the Code requires servicing of portable fire extinguishers not more than 1 year apart and the code also requires that portable fire extinguishers for schools be located so that the maximum travel distance does

not exceed 75 feet between each fire extinguisher. I strongly recommend that GDOE address this issue immediately in order to ensure that properly working and/or properly serviced fire extinguishers are available on campus in order to come into compliance with the Act as well as any regulatory code. Proper planning and scheduling should be a priority concerning the availability of working fire extinguishers to ensure that student safety is not compromised.

D. Water Fountains in disrepair or not in good working order.

Approximately four water fountains were observed in disrepair or not in good working order. The Department of Public Health School Sanitation Code requires drinking fountains to be kept clean and in good repair and drinking fountains shall be provided in the ratio of one per 75 students. In addition, the Act requires potable water sufficient to provide each student a daily ration of drinking water. Because four water fountains are in disrepair or not in good working order, the school may be faced with a shortage of properly working water fountains required to accommodate the student population. Therefore, I strongly recommend that such water fountains be repaired and/or replaced immediately in order to ensure that school meets the required amount of water fountains required to supply the student population.

E. Water leaking at GWA water meter.

A severe water leak was observed at the GWA water meter located just outside the first floor 3<sup>rd</sup> grade classroom area. The Principal indicated that the leak has been reported to GWA and GDOE Maintenance on December 10, 2009 but such leak has not yet been addressed as of the date of this report. The Principal also indicated that the leak is affecting the water pressure in the restrooms. I strongly recommend that GDOE contact the property parties to ensure that the water leak is repaired immediately as water is gushing out and has been doing so for approximately one week and such leak is affecting the water pressure to the school. I contacted GWA and informed them of the problem and they indicated that GWA personnel will be addressing the problem sometime in the afternoon of December 15, 2009.

F. Cafeteria water heater not in good working order.

The water heater being used to provide hot water to the cafeteria is not in good working order and as result; there is no hot water available in the cafeteria kitchen. The Department of Public Health and Social Services Eating and Drinking Establishment Rules and Regulations requires that hot water be made available in the cafeteria kitchen for various washing, cleaning, and sanitizing purposes. In addition, § 4 (12) (l) of the Act requires public schools to provide a healthful, safe, and sanitary environment. The Principal indicated that the problem was reported to GDOE Maintenance approximately one week ago. However, according to the School Principal, GDOE maintenance workers only showed up today to address the problem. Any report of a lack of hot water supply to the cafeteria kitchen should be addressed immediately as failure to provide hot water to the kitchen could result in negative consequences for the cafeteria and ultimately the school. Please be advised that according to Mr. James a school employee, the water heater has been repaired and is now producing hot water in the cafeteria. However, there still remains a problem with standing water located within the room that houses the water heater. Mr. James indicated that the problem has been reported and that a GDOE plumber has been contacted but it is not known when that problem would be rectified.

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G. Kindergarten common use restroom ceiling.

Presence of mold and/or mildew is observed on the ceilings of the kindergarten common use restrooms. School officials indicated that the problem is being caused by condensation being generated by the cafeteria dining room area. The Principal indicated that this is a recurring problem and that such problem has been reported. The Department of Public Health requires ceilings to be in clean and in good repair. In addition, the Act requires that the schools provide a healthful, safe, and sanitary learning environment. The presence of mold and/or mildew may present health concerns for students and as such, GDOE must immediately and permanently resolve the problem causing the build-up of mold and/or mildew to build up on the ceiling.

Please submit to my office a proposed plan of corrective action for each of the discrepancies identified, including but not limited to a date when such problems will be assessed and/or addressed, the anticipated date in which any such repairs and/or replacements will begin, and the date when such repairs or/replacements would be completed. Furthermore, for each particular discrepancy, submit to my office the status of any such repairs and/ or corrective action already performed. Please provide such information to my office within five (5) days of receipt of this correspondence.

Respectfully,

A handwritten signature in black ink, appearing to read "Dominic Terlaje", with a long horizontal flourish extending to the right.

Dominic Terlaje

cc:

Honorable Speaker, 30<sup>th</sup> Guam Legislature  
J.Q. San Miguel Principal (via email)  
Chairman, GEPB