



Office of the Adequate Education Suruhanu (Ombudsman)
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Dominic Terlaje
Education Suruhanu

February 18, 2010

MEMORANDUM

30-10-0172

T. Won Pat, P.L.D.
2/19/10:20

TO: Superintendent of Education
FROM: Education Suruhanu
SUBJECT: Lack of a certified teacher for three different classes at the FQ Sanchez Elementary School.

Dear Dr. Bretania Underwood:

This correspondence is written to inform you of the findings of my investigation into a complaint filed with my office concerning the transferring of some teachers from FQ Sanchez Elementary (FQ) which resulted in the combining of the different classes/grade levels and which also resulted in one certified teacher being assigned to each of the combined classes/grade levels. During the course of my investigation, I met with the School Principal who informed me that FQ has six different classes (Kindergarten through fifth grade) and at the beginning of the 2009-2010 school year there were five certified teachers for the six different classes. There were only five certified teachers because the 2nd and 3rd grade classes were combined into one classroom which was being taught by one certified teacher.

In addition, the Principal informed me that he received a directive from your office informing him that two of the five certified teachers at FQ were transferred to other schools, that the different classes/grade levels at FQ were to be combined into one classroom as a result of the transfer, and that the remaining three certified teachers at FQ are each assigned to teach one of the three combined classes. Each of the following classes/grade levels are combined into one classroom: 1) the Kindergarten class and the 1st grade class; 2) The 2nd and 3rd grade classes; and 3) The 4th and 5th grade classes.

P.L. 28-45 § 4 (12) (a) of the Every Child is Entitled to an Adequate Public Education Act (the Act) requires public schools to provide a certified teacher for every class in a ratio established by relevant collective bargaining agreements. In other words, the law requires one certified teacher for every one of the six classes at FQ—not one certified teacher for two different classes as is currently being practiced as a result of the transfer of teachers and the combining of the six different classes into three different combined classes. In addition, the Act does not currently provide for any exceptions that would allow one certified teacher to teach two different classes/grade levels in the same classroom at the same time. Therefore, in order to come into compliance with the ACT, I strongly recommend that GDOE immediately assign three certified teachers to FQ so that each and every class is assigned a certified teacher. I also recommend that GDOE identify personnel already within GDOE who are certified to teach and have such personnel assigned or detailed to FQ immediately.

It has also recently come to my attention that the transfer of such teachers from FQ to other public schools was done in an effort to help meet the needs of some of the northern schools that were faced with overcrowding in some of the classrooms which exceeded the maximum capacity allowed under the board union contract.¹ Please be advised that although the transfer of teachers from FQ to other schools may have been done in an effort to address overcrowded classrooms in order to comply with the board union contract, GDOE's decision to remove teachers from FQ results in non compliance with P.L. 28-45 § 4 (12) (a) of the Act on the basis that three different classes at FQ are each without a certified teacher.

¹Please note that GDOE would also be found non compliant with § 4 (12) (a) of the Act for classes that exceed the student to teacher ratio as established by the relevant collective bargaining agreement.

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Furthermore, please be advised that combining of the different classes/grade levels at FQ may potentially affect the instruction time being provided to students enrolled in each particular class/grade level. Guam Education Policy Board (GEPB), policy 346: Instruction Subjects and Time on Task for Elementary Schools states that the total instruction time for grades 1 to 5 is 1,500 minutes per week or 300 minutes per day. As such, I recommend that your office determine whether or not GDOE is in compliance with such board policy as a result of combining the different classes/grade levels and the assignment of one certified teacher to teach two different classes/grade levels in the same classroom at the same time. Moreover, I recommend that your office determine whether or not such combining of classes violates other laws, policies, and/or agreements including but limited to Local or Federal law, other GEPB policies, and/or the GFT agreement. In addition, such combining of classes may affect the delivery of any such instructional program currently being administered to the students at FQ.

Please provide to my office in writing, the action taken or to be taken by GDOE in order to come into compliance with the law including but limited the action taken or to be taken to provide a certified teacher for every class at FQ—for the Kindergarten class to the 5th grade class. In addition please indicate the anticipated time frame in which any such certified teacher[s] could be expected to be assigned to FQ and the expected return date of the two certified teachers that were recently transferred from FQ.

Please respond no later than seven calendar days from the date your office receives this correspondence. If you have questions, please do not hesitate to contact my office.

Respectfully submitted,



Dominic Terlaje

Hard copy will follow with signature on or before Friday, February 19, 2010

cc:

Honorable Speaker Judith T. Won Pat, Ed.D., 30th Guam Legislature
Chairman, Guam Education Policy Board
FQ Sanchez Administration (via email)