

Office of the
**ADEQUATE
EDUCATION
SURUHANU**

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May 17, 2010

MEMORANDUM

TO: Superintendent of Education

FROM: Education Suruhanu

SUBJECT: Detail of Mrs. Garcia as assistant administrator at LBJ/Tamuning.

[Handwritten signature]
5/18/10
2p.
30-10-0492

Dear Dr. Bretania Underwood:

I am in receipt of your memo dated May 12, 2010. Although 4 GCA § 4117 allows for the temporary assignment or detail of an individual to serve as a school principal or assistant school principal, my responsibility is to ensure that GDOE is in compliance with the 14 Points of P.L. 28-45. The specific provision at issue here is § 4 (12) (b) of P.L. 28-45 which requires public schools to provide certified professional administrators. As such, any person serving as a school administrator including any temporary detail appointment as a school administrator would require such person to be a certified professional administrator. Therefore, it is our position that in order to come into compliance with § 4 (12) (b), any person serving as a school administrator, including Mrs. Garcia, would need to be a certified professional administrator. Because Mrs. Garcia is being detailed to serve as a school administrator and does not possess a professional administrator's certificate at this time, despite the provisions provided for under § 4117 or § 904.506 of GDOE's rules and regulations, GDOE is not in compliance with § 4 (12) (b).

In addition, you indicated that Mrs. Garcia is serving an initial detail appointment to meet the temporary needs of the department and that § 4 GCA § 4117 allows DOE to detail Mrs. Garcia into a school administration position for an initial 360 calendar days. Please be advised that § 4117 states that detail appointments must not exceed 90 days unless the appointing authority obtains an exemption upon written application to the Director of Administration. See 4 G.C.A. § 4117. Section 4117 in part states that:

No exemption shall be granted to the ninety (90) day detail limitation except upon express approval by the Director of Administration and except that the Department of Education is provided an extended time period in the temporary assignment of school principals and assistant school principals as follows: Department employees temporarily assigned to the position of school principal or assistant school principal shall not assume the duties and responsibilities of a position other than the one to which he or she has been appointed for a period in excess of three hundred sixty (360) days, *provided* that there are no qualified applicants for those positions *and unless the appointing authority obtains an exemption upon written application to the Director of Administration*, which exemption shall not extend beyond an additional three hundred sixty (360) days. . . .

This particular portion of § 4117 allows for an extended time period beyond the initial 90 day period in the temporary assignment to the position of a school principal or assistant school principal for 360 days. However, such extension of time shall not be granted unless DOE

submits in writing an application for an exemption to the Director of Administration and the Director of Administration expressly approves any such application. Furthermore, § 4117 requires that the Speaker of the Guam Legislature be given notice of all temporary assignments within forty-eight (48) hours of such temporary assignment.

Although § 4117 may allow for the temporary detail assignment of a DOE employee to serve as a school administrator, it is not for this office to determine whether or not the DOE appointing authority has complied with the requirements under § 4117 to temporarily appoint Mrs. Garcia to serve as an assistant principal beyond the 90 day period. Our office's responsibility is to ensure that DOE is in compliance with § 4 (12) (b) of P.L. 28-45 by ensuring that any and all individuals serving as school administrators are certified professional administrators whether or not any such individual is serving under a temporary detail assignment. Although Ms. Reyes is a certified professional administrator, Mrs. Garcia is not at this time and thus, GDOE is not in compliance with § 4 (12) (b).

Based on the language contained in P.L. 28-45 § 4 (12) (b), 4 GCA § 4117, and § 904.506 of DOE's Rules and Regulations, I would be recommending as necessary, that an exception or exceptions be made to § 4 (12) (b) taking into consideration the various provisions of law and/or rules mentioned above concerning any individual who may serve as a school administrator. Any suggestions or additional recommendations you may have concerning any possible exceptions to § 4 (12) (b) would be appreciated.

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

Respectfully yours,



Dominic Terlaje

cc.

Speaker, 30th Guam Legislature

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