



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
U'FSINAN I MAGA LAHI
AGANA, GUAM 96910 U.S.A.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 4/28/04
TIME: 8:45 AM
RECD BY: [Signature]

APR 28 10 44

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

REFER TO
LEGISLATIVE SECRETARY

Dear Mr. Speaker:

Transmitted herewith is Bill No. 955 which I have signed into law this date as
Public Law 22-119.

Sincerely yours,

Frank F. Blas
FRANK F. BLAS
Governor of Guam
Acting

220670

Attachment

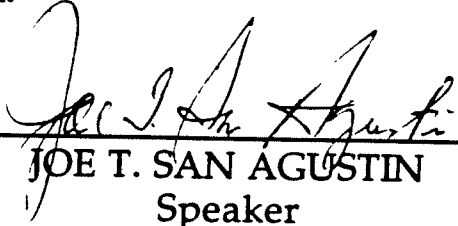


Commonwealth Now!

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

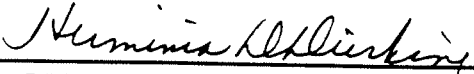
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 955 (LS), "AN ACT TO REPEAL AND REENACT CHAPTER 14A, TITLE XII, GOVERNMENT CODE, ON PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES, MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL REQUIREMENTS SET OUT IN THE "INDIVIDUALS WITH DISABILITIES EDUCATION ACT"," was on the 14th day of April, 1994, duly and regularly passed.




JOE T. SAN AGUSTIN
Speaker

Attested:



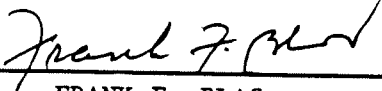
HERMINIA D. DIERKING
Senator and Acting Legislative Secretary

This Act was received by the Governor this 15th day of April, 1994, at
5:14 o'clock P.M.



Chereese G. Duenas
Assistant Staff Officer
Governor's Office

APPROVED:



FRANK F. BLAS
Governor of Guam
Acting

Date: APR 26 1994

Public Law No. 22-119

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 955 (LS)

As substituted by the Committee on
Education and as further substituted
by the Committee on Rules

Introduced by:

M. Z. Bordallo
C. T. C. Gutierrez
~~H. D. Dierking~~
E. P. Arriola
T. C. Ada
J. P. Aguon
P. C. Lujan
T. S. Nelson
V. C. Pangelinan
D. Parkinson
E. D. Reyes
J. T. San Agustin
F. E. Santos
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO REPEAL AND REENACT CHAPTER 14A,
TITLE XII, GOVERNMENT CODE, ON PROVIDING
EDUCATIONAL AND TRAINING FACILITIES FOR ALL
INDIVIDUALS WITH DISABILITIES, MAKING LOCAL
LEGISLATION CONFORM WITH FEDERAL
REQUIREMENTS SET OUT IN THE "INDIVIDUALS
WITH DISABILITIES EDUCATION ACT".

1 (d) For individuals from birth through age two (2), the term
2 "individuals with disabilities" also means those individuals who require early
3 intervention services because they are experiencing developmental delays or
4 have a diagnosed physical or mental condition that has a high probability of
5 resulting in developmental delay. This includes children from birth through
6 age two (2) who are at risk, as defined by regulations under IDEA, of having
7 substantial developmental delays.

8 (e) For individuals aged three (3) through five (5), the term
9 "individuals with disabilities" means those individuals who are experiencing
10 developmental delays, as defined by the Board and as measured by
11 appropriate diagnostic instruments and procedures, in one (1) or more of the
12 following areas: physical development, cognitive development,
13 communication development, social or emotional development, or adaptive
14 development, and for that reason, these children need special education or
15 related services or both.

16 **§11982. Identification for special education and related**
17 **services.** (a) The Annual Territory of Guam State Plan for Special Education
18 will assure that, to the maximum extent appropriate, individuals with
19 disabilities (including children in public or private institutions or other care
20 facilities) are educated with individuals who are not disabled and that special
21 classes, separate schooling, or other removal of individuals with disabilities
22 from the regular education environment occur only when the nature or
23 severity of the disability is such that education in regular classes with the use
24 of supplementary aids and services cannot be achieved satisfactorily.

25 (b) Children suspected of experiencing disabilities and needing special
26 education and related services are to be identified,

1 1. At the school level—through procedures established by the
2 Board.

3 2. Outside the school—by concerned parents or other individuals
4 contacting the Division of Special Education.

5 The policies and procedures for identification and referral of disabled
6 students shall be established by the Board through the "Territory of Guam
7 State Plan for the Delivery of Special Education Services Under Part "B" of
8 the Individuals with Disabilities Education Act (IDEA)" and the "Handbook
9 for the Delivery of Special Education Services".

10 (c) Each child who is determined to be eligible through the evaluation
11 process established by the Board for special education and related services
12 shall be subject to an Individualized Education Plan ("IEP") to be developed by
13 appropriate personnel.

14 1. The IEP must include a statement of the student's current
15 educational functioning level, annual goals and objectives for each area
16 of need, a statement of the specified special education and related
17 services that will be provided to the student, as well as a statement of
18 the extent the student will participate in regular education programs.

19 2. The IEP must include a statement of projected dates for service
20 delivery, and objective criteria and evaluation procedures for
21 determining progress made in achieving stated objectives. For
22 individuals with disabilities who are fourteen (14) years of age or in the
23 eighth grade, (or younger when determined appropriate), the IEP must
24 also include a plan for transition services, which should include the
25 following areas:

26 a. Instruction, community experiences, development of
27 employment or other post-school adult living objectives or both, and

1 if appropriate, acquisition of daily living skills and functional
2 vocational evaluation. Whenever the issue of transition is to be
3 discussed, the student shall be invited to the IEP meeting. Whether
4 the student attends or not, his or her interests and preferences must
5 be taken into account. The adult service agency that is likely to be
6 responsible for providing or paying for transition services shall send
7 a representative to the IEP meeting authorized to bind such agency.

8 3. For the purpose of developing an IEP, an IEP meeting must be
9 conducted insuring that a plan is designed to meet the unique
10 educational needs of the eligible student with disabilities, and a
11 determination made as to where the IEP will be implemented.

12 4. Review of a child's progress within his or her IEP is required at
13 least every year.

14 5. A formal evaluation of an individual with disabilities will be
15 made prior to the initial placement or denial of placement of a child
16 with a disability into a special education program and as part of a three
17 (3) year re-evaluation.

18 (d) Placement decisions are to be determined after the IEP has been
19 developed.

20 1. Placement is to be based upon the IEP of the individual, and in
21 accordance with the mandate under IDEA for placement in the least
22 restrictive environment available.

23 2. Placement decisions are not to be based solely upon the
24 availability of programs.

25 3. A full continuum of services must be available to individuals
26 with disabilities as outlined in IDEA.

1 4. When determining placement for a student with limited English
2 proficiency, all policies and procedures that are used to determine
3 placement for English-proficient students must be followed.
4 Additionally the full continuum of special education and bilingual
5 services is to be made available to the student with a disability.

6 (e) For individuals with disabilities from birth through age two (2), an
7 Individualized Family Services Plan will be developed which will:

8 1. Be developed jointly by the family and appropriate qualified
9 personnel involved in the provision of early intervention services.

10 2. Be based on a multidisciplinary assessment of the unique
11 strengths and needs of the infant or toddler and the identification of
12 services appropriate to meet such needs.

13 3. Be based on a family-directed assessment of the resources,
14 priorities, and concerns of the family and the identification of the
15 support and services necessary to enhance the family's capacity to meet
16 the developmental needs of their infant or toddler with a disability.

17 §11983. Special education teachers, classes, materials, opportunities,
18 day schools, hospital classes and home instruction. The Board shall, subject
19 to the limitations specified in this chapter, provide appropriate special
20 education teachers, aides, and materials for all individuals identified in
21 accordance with IDEA as needing special education or related services or
22 both, so that such children shall be kept in regular school classes unless the
23 nature and severity of disability require the establishment and maintenance of
24 special classes. In addition, the Board shall (i) provide for the proper training
25 and development of special education teachers, aides and staff to guarantee
26 continued quality special education services, (ii) insure that appropriate
27 educational materials and supplies are furnished, and (iii) insure that, to the

1 maximum extent possible, appropriate educational facilities are provided for
2 the proper training and education of individuals with disabilities, as set forth
3 in this chapter. For the same purpose, the Board shall remove all
4 architectural and other barriers for such individuals as mandated in the
5 federal Americans with Disabilities Act ("ADA") and Section 504 of the federal
6 Rehabilitation Act of 1973.

7 Any public school classroom built for and utilized by individuals with
8 disabilities, utilizing either federal or territorial funds, shall meet ADA and
9 Section 504 accessibility requirements. Such classrooms shall be located in the
10 most appropriate area within a school campus, given specific needs such as
11 proximity to the special transportation pick-up and drop-off point, proximity
12 to the nurses' office, and the like. Such classrooms, when specifically built for
13 or utilized by individuals with disabilities, shall not be reassigned for any
14 other educational program needs, unless this reassignment is to relocate the
15 students with disabilities to a newer or more appropriate classroom.

16 **§11984. Payment of the extra cost of instruction, education or training**
17 **of individuals with disabilities.** (a) Because of the diverse need of individuals
18 with disabilities, the Board may approve special requests made by the
19 Division of Special Education or by individual schools for payment of
20 additional costs for training of personnel. In addition, due to the frequent
21 inability to recruit sufficient certified specialists, including but not limited to
22 speech, physical and occupational therapists, and interpreters, the Civil
23 Service Commission may approve additional costs for salaries of personnel.
24 Such requests must be specific to:

25 1. Providing intensive training to faculty and staff in the areas of
26 programming, including integration strategies;

1 2. The establishment of new job classifications for specific skill
2 areas, such as job coach or interpreter; or

3 3. The recruitment of specialists above step for positions that are
4 consistently under-filled or vacant due to non-competitive salary
5 ranges.

6 (b) Special education staff to student ratios shall be determined by the
7 Board within the mandates of IDEA.

8 **§11985. Qualifications of supervisors, teachers, therapists and**
9 **aides.** No person shall be employed as supervisor, therapist, teacher, or aide
10 who does not hold a valid degree or certificate as provided by law or unless
11 he or she has had such special training as the Board may require.

12 **§11986. Purchase of services.** The Department of Education may, with
13 the consent and approval of the Board, contract with the Department of
14 Public Health and Social Services, the Guam Memorial Hospital Authority,
15 or approved private schools, facilities, or contractors for the provision of
16 special educational and training services, including but not limited to physical
17 and occupational therapy, speech therapy and auditory training, on-the-job
18 training, or vocational/technical education or other related services, as
19 authorized under IDEA. Such contracts shall not relieve the Department of
20 Education of its obligations or of supervision. In such event, the Board is
21 authorized to pay tuition or training costs not to exceed the average gross
22 cost per educable student in the school plus the **pro rata** part of the allotment
23 provided for serving pupils requiring special education and training.
24 Contractual services under this chapter shall only be provided to eligible
25 students pursuant to an IEP and following procedures set out in the Guam
26 State Plan ensuring that a complete continuum of special education
27 placement, required by subsections (a) and (b) of §300.551 of Title 34, Code of

1 Federal Regulations, issued under IDEA, is available for placement in the
2 least restrictive environment.

3 **§11987. Administration of the chapter.** This chapter shall be
4 administered by the Department of Education with the approval of the
5 Board, and the Board shall promulgate such rules and regulations as it may
6 deem necessary for the proper administration of this chapter. The Board
7 shall prescribe the standards and approve the conditions under which
8 facilities are furnished or services purchased. The Director of Education shall
9 be responsible for administering such standards and conditions.

10 **§11988. Cooperation with other agencies: gifts and donations.** The
11 Division of Special Education and other school agencies are required to
12 cooperate with other agencies within Guam, both public and private, that are
13 interested in working toward the education or training of children with
14 disabilities. Educational agencies are authorized to accept gifts, donations,
15 or aid from such private agencies.

16 **§11989. Advisory committee.** The Board shall ensure that a Territorial
17 Advisory Panel on Disabilities is established, which shall be composed of
18 eleven (11) members who are involved in or concerned with the education of
19 individuals with disabilities. The Board shall be responsible for establishing
20 procedures for appointment of the members, length of terms, and frequency
21 of meetings. The Territorial Advisory Panel on Disabilities shall include at
22 least one (1) person representative of each of the following groups:

- 23 (1) Individuals with disabilities;
- 24 (2) Teachers of children with disabilities;
- 25 (3) Parents of children with disabilities;
- 26 (4) Territorial educational officials;
- 27 (5) Special education program administrators;

1 (6) A representative from the Legislature, to be appointed by the
2 Speaker of the Legislature;

3 (7) Others who shall be appointed by the Board, which in
4 selecting the remaining members shall take into consideration the
5 purposes of the Territorial Advisory Panel on Disabilities.

6 The Territorial Advisory Panel on Disabilities shall:

7 (a) Advise the Board of unmet needs within Guam in the
8 education of individuals with disabilities;

9 (b) Comment publicly on the Guam State Plan and the policies
10 and procedures proposed thereunder on the education of individuals
11 with disabilities and on distribution of funds under this chapter; and

12 (c) By July 1st of each year, the Territorial Advisory Panel on
13 Disabilities shall submit an annual report of panel activities and
14 suggestions to the Board, which report will be made available to the
15 public in a manner consistent with other public reporting requirements.

16 §11990. Names, facts and opinions to be furnished to the Board and the
17 Department of Education. It shall be the duty of all government agencies
18 offering services to individuals with disabilities to provide to the Board, or to
19 the Department of Education, or to its designated agencies, information
20 regarding educational or training placement of individuals with disabilities
21 or other exceptional children who are enrolled or expect to enroll in the public
22 schools. Objective facts and expert opinions pertinent to the proper
23 education or training of individuals with disabilities and other exceptional
24 children shall, so far as practicable, be used in order to provide a continuum
25 of services to individuals with disabilities."

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 4/14/94

VOTING SHEET (AS REVISED)

Bill No. 955
 Resolution No. _____
 Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.	✓			
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P. /	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S. //	✓			
PANGELINAN, Vicente	✓			
PARKINSON, Don	✓			
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francis E.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL 21 0 0 _____



COMMITTEE ON EDUCATION
TWENTY-SECOND GUAM LEGISLATURE
KUMITEN IDUKASION
MINA'BENTE DOS NA LIHESLATURA

155 Hesler Street • Agaña, Guam 96910 • Tel: (671) 472-3581/2/3 • Fax: (671) 472-3585

April 11, 1994

POF-1

Senator
Madeleine F. Bordallo
 CHAIRPERSON

COMMITTEE ON
 EDUCATION

Sen. Thomas C. Ada
 Vice-Chairperson

MEMBERS

- Vice Speaker John P. Aguon
- Sen. Elizabeth P. Arriola
- Sen. Herminia D. Dierking
- Sen. Carl T.C. Gutierrez
- Sen. Pilar C. Lujan
- Sen. David L.G. Shimizu
- Sen. J. George Bamba
- Sen. Anthony C. Blaz
- Sen. Marilyn D.A. Manibusan
- Sen. Thomas V.C. Tanaka

Speaker Joe T. San Agustin
 Ex. Officio

The Honorable Joe T. San Agustin
Speaker, Twenty Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Speaker San Agustin:

The Committee on Education, Twenty Second Guam Legislature, to which was referred BILL NO. 955: "AN ACT TO AMEND CHAPTER 14A OF TITLE XII OF THE GOVERNMENT CODE OF GUAM RELATIVE TO PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES; THEREBY MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL LEGISLATION, THE 'INDIVIDUALS WITH DISABILITIES EDUCATION ACT'", as substituted by the Committee on Education, does hereby recommend that the provision be favorably considered and passed by the Twenty-Second Guam Legislature.

Votes of the Committee members are as follows:

<i>To Pass</i>	<u>9</u>
<i>To Not Pass</i>	<u>0</u>
<i>To Abstain</i>	<u>0</u>
<i>To Report Out</i>	<u>0</u>
<i>To Place in Inactive File</i>	<u>0</u>
<i>Off-Island</i>	<u>0</u>
<i>Not Available</i>	<u>4</u>

Respectfully Submitted,

Madeleine Z. Bordallo
MADELEINE Z. BORDALLO
 Chairperson

Enclosures



COMMITTEE ON EDUCATION

TWENTY-SECOND GUAM LEGISLATURE

KUMITEN IDUKASION

MINA'BENTE DOS NA LIHESLATURA

155 Hesler Street • Agaña, Guam 96910 • Tel: (671) 472-3581/2/3 • Fax: (671) 472-3585

VOTING SHEET

Senato
Madeleine F. Bordallo
 CHAIRPERSON

BILL NO. 955

(AS SUBSTITUTED BY THE COMMITTEE ON EDUCATION)

COMMITTEE ON
 EDUCATION

"AN ACT TO AMEND CHAPTER 14A OF TITLE XII OF THE GOVERNMENT CODE OF GUAM RELATIVE TO PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES; THEREBY MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL LEGISLATION, THE 'INDIVIDUALS WITH DISABILITIES EDUCATION ACT'."

Sen. Thomas C. Ada
 Vice-Chairperson

MEMBERS

- Vice Speaker John P. Aguon
- Sen. Elizabeth P. Arriola
- Sen. Herminia D. Dierking
- Sen. Carl T.C. Gutierrez
- Sen. Pilar C. Lujan
- Sen. David L.G. Shimizu
- Sen. J. George Bamba
- Sen. Anthony C. Blaz
- Sen. Marilyn D.A. Manibusan
- Sen. Thomas V.C. Tanaka

Speaker Joe T. San Agustin
 Ex. Officio

<u>COMMITTEE MEMBER</u>	TO <u>PASS</u>	NOT TO <u>PASS</u>	TO <u>ABSTAIN</u>	TO PLACE IN <u>I N A C T I V E</u> <u>FILE</u>
<i>Madeleine F. Bordallo</i> MADELEINE F. BORDALLO Chairperson	✓			
<i>Thomas C. Ada</i> THOMAS C. ADA Vice Chairperson	✓			
<i>Joe T. San Agustin</i> SPEAKER JOE T. SAN AGUSTIN (Ex-Officio Member)	✓			
<i>Carl T.C. Gutierrez</i> CARL T.C. GUTIERREZ Member	✓			
<i>David L.G. Shimizu</i> DAVID L. G. SHIMIZU Member	✓			
<i>John P. Aguon</i> VICE-SPEAKER JOHN P. AGUON Member	✓			
<i>Herminia D. Dierking</i> HERMINIA D. DIERKING Member	✓			

COMMITTEE MEMBER

TO PASS NOT TO PASS

TO ABSTAIN

TO PLACE IN INACTIV FILE

E. Arriola

ELIZABETH P. ARRIOLA
Member

P. Lujan

PILAR C. LUJAN
Member

J. GEORGE BAMBA
Member

ANTHONY C. BLAZ
Member

MARILYN D.A. MANIBUSAN
Member

THOMAS V.C. TANAKA
Member

**COMMITTEE ON EDUCATION
TWENTY SECOND GUAM LEGISLATURE**

**SENATOR MADELEINE Z. BORDALLO
Chairperson**

COMMITTEE MEMBERS

**Senator Thomas C. Ada, Vice-Chairman
Vice-Speaker John P. Aguon
Senator Elizabeth P. Arriola
Senator Herminia D. Dierking
Senator Carl T. C. Gutierrez
Senator Pilar C. Lujan
Senator David L. G. Shimizu
Senator J. George Bamba
Senator Anthony C. Blaz
Senator Marilyn D. A. Manibusan
Senator Thomas V. C. Tanaka**

**Speaker Joe T. San Agustin
Ex-Officio Member**

**COMMITTEE REPORT
ON
BILL NO. 955**

**"AN ACT TO AMEND CHAPTER 14A OF TITLE XII
OF THE GOVERNMENT CODE OF GUAM RELATIVE
TO PROVIDING EDUCATIONAL AND TRAINING
FACILITIES FOR ALL INDIVIDUALS WITH
DISABILITIES; THEREBY MAKING LOCAL
LEGISLATION CONFORM WITH FEDERAL
LEGISLATION, THE 'INDIVIDUALS WITH
DISABILITIES EDUCATION ACT'."**

The Committee on Education of the Twenty Second Guam Legislature conducted a Public Hearing on Bill No. 955, relative to updating the local provision on providing educational and training facilities for all individuals with disabilities, on Thursday, April 07, 1994, in the Public Hearing Room, Temporary Legislative Building, Agana, Guam.

COMMITTEE MEMBERS PRESENT:
Senator Madeleine Z. Bordallo, Chairperson

WITNESSES PRESENT: Vincent Leon Guerrero, Division of Special Education, Department of Education; William F. Rymer, Division of Special Education, Department of Education; Nieves Flores, Special Education, Department of Education; Jelly Flores, President, Autism Society of Guam.

SUMMARY OF TESTIMONY

Mr. Robert W. Klitzkie
Acting-Director, Department of Education

Mr. Robert W. Klitzkie presented written testimony to the Committee in support of Bill No. 955. Mr. Klitzkie emphasized that the proposed changes to the local statute on education and training for the disabled is necessitated by the United States Office of Special Education Programs for the conditional approval of the Territory of Guam State Plan for FY 1994-1996, and it will conform with the Individuals With Disabilities Education Act (IDEA). Mr. Klitzkie then stated that his department fully supports the intent of the provision.

Mr. Vincent Leon Guerrero
Acting Associate Superintendent, Division of Special Education
Department of Education

Mr. Vincent Leon Guerrero, Acting-Associate Superintendent of the Division of Special Education of the Department of Education, presented oral and written testimony in support of Bill No. 955. Mr. Leon Guerrero explained that Bill No. 955 would update the previous law, which provides the policy and direction for providing special education for individuals with disabilities in the Territory of Guam, and would make local law consistent with federal law, the Individuals With Disabilities Education Act. Mr. Leon Guerrero further stated the differences include: the use of the term "Individuals with Disabilities", updating the definition of disabilities; specifying the services for individuals with disabilities; the establishment of transition services for individuals with disabilities; the establishment of an Advisory Panel on Disabilities; and provides the Department of Education with the flexibility to establish and amend

rules and standards on disability services.

Ms. Jelly Ann Flores
President of The Autism Society of Guam

Ms. Jelly Ann Flores, President and Founder of the Autism Society of Guam and member of the Developmental Disabilities Planning Council, presented oral and written testimony in support of Bill No. 955. Ms. Flores emphasized that the autism disability should be incorporated into the provision, because autism is a separate category of disability. Ms. Flores further presented several recommendations on the measure, which include: establishing a comprehensive teacher training and certification system in the area of autism; identifying staffing needs for the autistic program; providing a budget designed to meet the education and training needs of autistic school children; and, providing appropriate office and classroom space for the autistic services program. Ms. Flores thanked the Committee for entertaining and updating the provisions on the disabled and reiterated her support for Bill No. 955.

COMMITTEE QUESTIONS/COMMENTS

Senator Madeleine Z. Bordallo, Chairperson, then posed several questions to the witnesses who presented testimony. Senator Bordallo questioned why the proposal, which the Committee received from the Division of Special Education of the Department of Education, has only recently been presented to the Committee. Mr. Vincent Leon Guerrero stated that the federal government in the latter part of last year questioned the Department about why local legislation had not been updated to reflect current statutes, it is then that the Department pursued the updating of these provisions, by presenting the measure to the Board of Education. Because there was no action on the measure by the Board, the Division of Special Education decided to directly approach the legislature with the measure. Senator Bordallo then asked what major provisions have been amended to existing mandates, as provided for in Bill No. 955. Vince Leon Guerrero stated that his testimony provides a list of amendments which have been added to existing provisions, and enumerated them. In regards to the autism needs of students in special education, Mr. Leon Guerrero stated that the Division of Special Education presently has a budget in the amount of \$85,000 which may be applied to the development and training of teachers or special

education staff both for on-island and off-island training, and that such funds may be used to address Ms. Jelly Flores' concern on the training of autism specialists. Mr. Leon Guerrero then expressed his concern about the availability and use of school and classroom facilities for the disabled, particularly classroom facilities which have been built for special education programs, which have in the past been taken from the division for other educational needs of the department. Senator Bordallo then responded that a provision may be incorporated into Bill No. 955, which would insure that classroom facilities being used by for the education of individuals with disabilities (which provide for special accommodations for the needs of the disabled students) are not utilized for other educational programs, unless such classroom space are no longer needed. Senator Bordallo then questioned the use of the Brodie Memorial School facility; and Mr. Leon Guerrero explained the uses of the numerous classroom and building facilities, and also stated that there are still 17 severely disabled students receiving educational training at the Brodie Memorial School facility.

COMMITTEE FINDINGS/RECOMMENDATIONS

The Committee on Education of the Twenty Second Guam Legislature finds that the federal mandate on disabilities, specifically the Individuals With Disabilities Education Act, was adopted in 1990, and since then local legislation have not be made to conform with such statutes. The Committee also finds that the Department of Education may be subject to losing federal funding in the area of special education, if local policies and mandates are not made to conform with federal legislation. The Committee further finds that Bill No. 955, is the product of the hard work and commitment of personnel within the Division of Special Education of the Department of Education. THEREFORE, THE COMMITTEE ON EDUCATION RECOMMENDS THAT BILL NO. 955, AS SUBSTITUTED BY THE COMMITTEE ON EDUCATION, "AN ACT TO AMEND CHAPTER 14A OF TITLE XII OF THE GOVERNMENT CODE OF GUAM RELATIVE TO PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES; THEREBY MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL LEGISLATION, THE 'INDIVIDUALS WITH DISABILITIES EDUCATION ACT'", BE FAVORABLY CONSIDERED AND PASSED BY THE TWENTY SECOND GUAM LEGISLATURE.

ATTACHMENTS

1. Voting sheet on Bill No. 955, as substituted by the Committee on Education of the Twenty Second Guam Legislature.
2. Bill No. 955, as substituted by the Committee on Education of the Twenty Second Guam Legislature.
3. Bill No. 955, as introduced.
4. Public Law No. 13-207, present local statute on educational and training facilities and opportunities for all handicapped.
5. Written testimony by Mr. Robert W. Klitzkie, Acting-Director, Department of Education.
6. Written testimony by Mr. Vince Leon Guerrero, Acting-Associate Superintendent, Division of Special Education, Department of Education.
7. Written testimony by Ms. Jelly Ann Flores, President and Founder of the Autism Society of Guam.
8. Federal Register, Department of Education, Assistance to States for the Education of Children with Disabilities Program and Preschool Grants for Children with Disabilities; Final Rule.
9. Federal Register, Department of Education, Early Intervention Program for Infants and Toddlers with Disabilities; Final Rule.
10. Copy of the agenda on the Public Hearing conducted on Bill No. 955, which was held on Thursday, April 07, 1994, in the Public Hearing Room, Temporary Legislative Building, Agana, Guam.
11. Witness attendance sheet on Bill No. 955 from the Public Hearing conducted on Thursday, April 07, 1994, in the Public Hearing Room, Temporary Legislative Building, Agana, Guam.

**TWENTY SECOND GUAM LEGISLATURE
1994 (SECOND) REGULAR SESSION**

BILL NO. 955.

**(AS SUBST. BY THE COMMITTEE ON EDUCATION)
INTRODUCED BY:**

M. Z. BORDALLO
C. T. C. GUTIERREZ

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H. Quiñones
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**"AN ACT TO AMEND CHAPTER 14A OF TITLE XII
OF THE GOVERNMENT CODE OF GUAM RELATIVE
TO PROVIDING EDUCATIONAL AND TRAINING
FACILITIES FOR ALL INDIVIDUALS WITH
DISABILITIES; THEREBY MAKING LOCAL
LEGISLATION CONFORM WITH FEDERAL
LEGISLATION, THE 'INDIVIDUALS WITH
DISABILITIES EDUCATION ACT'."**

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

Section 1. Chapter 14A of Title XII of the Government Code of Guam
is hereby repealed and reenacted to read as follows:

**"CHAPTER 14A
Education and Training for
Individuals with Disabilities**

Section 11980. Same: Declaration of Public Policy.

It is and shall be the duty of the various branches and divisions of
the Department of Education to offer free and appropriate public educational
and training services and opportunities to all individuals of school age
whether normal, gifted or disabled regardless of the degree of disability.

Section 11981. Same: Purpose.

(a) The purpose of this part is to require that appropriate special education and/or related services be provided for all individuals with disabilities of public school age, or within the broader age limits hereinafter provided.

(b) As used in this part the term "Individuals With Disabilities" means those school aged individuals evaluated as having mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who because of those impairments need special educational and/or related services, as per additional regulations outlined in the IDEA.

(c) All identified individuals with disabilities birth (0) through (21) are eligible for services in the categories described in the preceding paragraph, subject to the rules and regulations of the Board of Education and the IDEA.

(d) For individuals aged birth through two (2) the term "Individuals With Disabilities" means those individuals who require early intervention services because they are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. This includes children aged birth through two (2) who are at risk, as defined by Federal Regulations, under the IDEA, of having substantial developmental delays.

(e) For individuals aged three (3) through five (5) the term "Individuals With Disabilities" means those individuals who are experiencing developmental delays, as defined by the Board of Education and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development: and for that reason, these children need special education and/or related services.

1 **Section 11982. Same: Identification for Special Education and**
2 **Related Services.**

3 (a) The Annual State Plan for Special Education will assure that, to the
4 maximum extent appropriate, individuals with disabilities (including children in
5 public or private institutions or other care facilities) are educated with
6 individuals who are not disabled and that special classes, separate schooling, or
7 other removal of individuals with disabilities from the regular education
8 environment occurs only when the nature or severity of the disability is such that
9 education in regular classes with the use of supplementary aids and services
10 cannot be achieved satisfactorily.

11 (b) Children suspected of experiencing disabilities and needing special
12 education and related services are to be identified,

- 13 1. At the school level --- through procedures established by the
14 Territorial Board of Education.
- 15 2. Outside the school --- by concerned parents and/or other
16 individuals contacting the Department of Education's Division
17 of Special Education.

18 The policies and procedures for identification and referral of disabled
19 students shall be established by the Board of Education through the "Territory
20 of Guam State Plan for the Delivery of Special Education Services Under Part
21 "B" of the Individuals with Disabilities Education Act (IDEA)" and the
22 "Handbook for the Delivery of Special Education Services."

23 (c) Each child, who is determined to be eligible, through the evaluation
24 process established by the Board of Education, for special education and related
25 services shall be subject to an Individualized Education Plan (IEP) to be
26 developed by the appropriate personnel.

- 27 1. The Individualized Education Plan (IEP) must include a
28 statement of the student's current educational functioning
29 level, annual goals and objectives for each area of need, a

1 statement of the specific special education and related services
2 that will be provided to the student, as well as a statement of
3 the extent the student will participate in regular education
4 programs.

5 2. The IEP must include a statement of projected dates for
6 service delivery, and objective criteria and evaluation
7 procedures for determining progress made in achieving stated
8 objectives. For individuals with disabilities 14 years of age
9 or eighth (8th) grade, (or younger when determined
10 appropriate), the IEP must also include a plan for "transition
11 services." Transition services should include the following
12 areas:

13 a. instruction, community experiences,
14 development of employment and/or other
15 post-school adult living objectives, and if
16 appropriate, acquisition of daily living
17 skills and functional vocational evaluation.
18 Whenever, the issue of transition is to be
19 discussed, the student shall be invited to the
20 IEP meeting. Whether the student attends
21 or not, his or her interests and preferences
22 must be taken into account. Adult service
23 agencies must also include a representative
24 that is likely to be responsible for providing
25 or paying for transition services.

26 3. For the purpose of developing an Individualized Educational
27 Program (IEP) an IEP meeting must be conducted insuring
28 that a plan is designed to meet the eligible disabled
29 student's unique educational needs, and that a determination

1 is made as to where the IEP will be implemented.

2 4. Review of a child's progress within his/her Individualized
3 Educational Program (IEP) will be required at least every
4 year.

5 5. A formal evaluation of an individual with disabilities will be
6 made prior to the initial placement or denial of placement of
7 a child with a disability into a special education program and
8 as part of a three year re-evaluation.

9 (d) Placement decisions are to be determined after the IEP has been
10 developed.

11 1. Placement is to be based upon the individual with disabilities
12 IEP, and in accordance with the mandate under the Individuals
13 with Disabilities Education Act (IDEA) for placement in the
14 Least Restrictive Environment.

15 2. Placement decisions are not to be based solely upon the
16 availability of programs.

17 3. A full continuum of services must be available to individuals
18 with disabilities as outlined in the IDEA,

19 4. When determining placement for a student with limited
20 English proficiency, all policies and procedures that are
21 used to determine placement for non limited English
22 proficient students must be followed. Additionally the full
23 continuum of special education and bilingual/LOTE
24 services is to be made available to the student with a
25 disability,

26 (e) For individuals with disabilities, ages birth-2, an Individualized
27 Family Services Plan (IFSP) will be developed which will:

28 1. Be developed jointly by the family and appropriate qualified
29 personnel involved in the provision of early intervention

1 services.

2 2. Be based on a multidisciplinary assessment of the unique
3 strengths and needs of the infant and toddler and the
4 identification of services appropriate to meet such needs.

5 3. Be based on a family directed assessment of the resources,
6 priorities, and concerns of the family and the identification of
7 the support and services necessary to enhance the family's
8 capacity to meet the developmental needs of their infant
9 and/or toddler with a disability.

10
11 **Section 11983. Same: Special Education Teachers, Classes, Materials,**
12 **Opportunities, Day Schools, Hospital Classes and Home Instruction.**

13 The Board of Education shall, subject to the limitations hereinafter
14 specified, provide appropriate special education teachers, aides, and materials,
15 for all individuals identified, in accordance with, the Individuals with Disabilities
16 Education Act (IDEA) as needing special education and/or related services, so
17 that such children shall be kept in regular school classes unless the nature and
18 severity of disability requires the establishment and maintenance of special
19 classes. In addition, the Board of Education shall provide for the proper training
20 and development of special education teachers, aides and staff, to guarantee
21 continued quality special education services; shall insure that appropriate
22 educational materials and supplies are furnished; and shall insure that, to the
23 maximum extent possible, appropriate educational facilities are provided for the
24 proper training and education of individuals with disabilities, as set forth in this
25 Chapter. For the same purpose, the Board of Education shall remove all
26 architectural and other barriers as mandated in the Americans with Disabilities
27 Act (ADA) and Section 504 of the Rehabilitation Act of 1973.

28 Any public school classroom built for and utilized by individuals with
29 disabilities, utilizing either federal or local funds, shall meet ADA and Section

1 504 accessibility requirements. Such classrooms shall be located in the most
2 appropriate area within a school campus, given specific needs such as proximity
3 to the special transportation pick-up and drop-off point, proximity to the nurse's
4 office, etc. Such classrooms, when specifically built for and/or utilized by
5 individuals with disabilities, shall not be reassigned for any other educational
6 program needs, unless this reassignment is to relocate the students with
7 disabilities to a newer or more appropriate classroom.

8
9 **Section 11984. Amended: Payment of Extra Cost of Instruction,**
10 **Education or Training of Individuals with Disabilities.**

11 (a) Because of the diverse need of individuals with disabilities, the
12 Board of Education may approve special requests made by the Division of
13 Special Education and/or individual schools for payment of additional costs for
14 training of personnel. In addition, due to the frequent inability to recruit
15 sufficient certified specialists (i. e. speech, physical, and occupational therapists,
16 interpreters), the Civil Service Commission may approve additional costs for
17 salaries of personnel. Such requests must be specific to:

- 18 1. providing intensive training to faculty and staff in the areas of
19 programming, including integration strategies.
- 20 2. the establishment of new job classifications for specific skill
21 areas (i. e. job coach, interpreter); and/or
- 22 3. the recruitment of specialists above step for positions that are
23 consistent (under-filled) and/or vacant due to non-competitive
24 salary ranges.

25 (b) Special Education staff to student ratios shall be determined by the
26 Board of Education within the mandates of the IDEA.

27
28 **Section 11985. Same: Qualifications of Supervisors, Teachers, Therapists, and**

29 **Aides.**

30 No person shall be employed as supervisor, therapist, teacher, or aide who does not hold a valid degree or

1 certificate as provided by law or unless he/she has had such special training as the Board of Education may require.

2
3 **Section 11986. Same: Purchase of Services.**

4 The Department of Education may, with the consent and approval of the Board of Education, contract
5 with the Department of Health and Social Services and Guam Memorial Hospital, or approved private schools, facilities,
6 or contractors for the provision of special educational and training services; (i.e. physical and occupational therapy,
7 speech therapy and auditory training, on the job training, or vocational/technical education or other related services),
8 authorized under the IDEA. This shall not relieve the Department of Education of its obligation or supervision. In such
9 event, the Board of Education is authorized to pay tuition or training costs not to exceed the average gross cost per
10 educable student in the school plus the pro rata part of the allotment provided above for serving pupils requiring special
11 education and training.

12 Contractual services under this Act shall only be provided to eligible students pursuant to an IEP and following
13 procedures put forth in the Territory of Guam State Plan ensuring that a complete continuum of special education
14 placement, required by 34 CFR §300.551 (a) (b) under the IDEA is available for placement in the least restrictive
15 environment.

16
17 **Section 11987. Same: Administration of Chapter.**

18 The entire provisions of this Chapter shall be administered by the Department of Education with the
19 approval of the Board of Education; and the Board of Education shall promulgate such rules and regulations as it may
20 deem necessary for the proper administration of this chapter.

21 The Board of Education shall prescribe the standards and approve the conditions under which the facilities are
22 furnished or services purchased. The Director of Education shall be responsible for administrating the same.

23
24 **Section 11988. Same: Cooperation With Other Agencies: Gifts or Donations.**

25 The Division of Special Education and/or school agencies are required to cooperate with other agencies
26 within the Territory, both public and private, that are interested in working toward the education or training of children
27 with disabilities. Educational agencies are authorized are authorized to accept gifts or donations, or aid from such
28 private agencies.

29
30 **Section 11989. Same: Advisory Committee.**

31 The Territorial Board of Education shall ensure that a "Territorial Advisory Panel on Disabilities" is
32 established, which shall be composed of eleven (11) members involved in or concerned with the
33 education of individuals with disabilities. The Territorial Board of
34 Education shall be responsible for establishing procedures for
35 appointment of the members, length of terms, and frequency of
36 meetings,

37 The composition of the Territorial Advisory Panel on
38 Disabilities shall include at least one person representative of each of

1 the following groups:

- 2 (1) Individuals with disabilities;
- 3 (2) Teachers of children with disabilities;
- 4 (3) Parents of children with disabilities;
- 5 (4) Territorial educational officials;
- 6 (5) Special education program administrators;
- 7 (6) A representative from the Guam Legislature, to be
- 8 appointed by the Speaker of the Legislature.
- 9 (6) Others who shall be appointed by the Guam
- 10 Territorial Board of Education; which, upon the
- 11 selection of the remaining members, shall take into
- 12 consideration the objective and intent of the
- 13 Territorial Advisory Panel on Disabilities.

14 The Territorial Advisory Panel on Disabilities shall:

- 15 (a) Advise the Board of Education of unmet needs
- 16 within the Territory in the education of individuals
- 17 with disabilities.
- 18 (b) Comment publicly on the State Plan and the
- 19 policies and procedures proposed for issuance by
- 20 the Territory regarding the education of individuals
- 21 with disabilities and the procedures for distribution
- 22 of funds under this part; and
- 23 (c) By July 1 of each year, the Territorial Advisory
- 24 Panel on Disabilities shall submit an annual report
- 25 of panel activities and suggestions to the Board of

1 Education. This report will be made available to
2 the public in manner consistent with other public
3 reporting requirements.
4

5 **Section 11990. Same: Names, Facts and Opinions to be**
6 **Furnished to the Territorial Board of Education and the**
7 **Department of Education.**

8 It shall be the duty of all government agencies offering
9 services to individuals with disabilities to provide to the Territorial
10 Board of Education, the Department of Education or its designated
11 competent authorities, information regarding educational or
12 training placement of individuals with disabilities or other
13 exceptional children who enrolled or expect to enroll in the public
14 schools. The facts and opinions pertinent to the proper education
15 or training of individuals with disabilities and other exceptional
16 children shall, so far as practicable, be used in order to provide a
17 continuum of services to individuals with disabilities."