



Office of the Governor of Guam

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Felix Perez Camacho  
Governor

APR 29 2003

Kaleo Scott Moylan  
Lieutenant Governor

Office of the People's Speaker  
Vicente (Vic) C. Pangelinan

APR 30 2003

TIME: 3:09 | AM | 7PM  
DATE: BY:

The Honorable Vicente C. Pangelinan  
Speaker  
*Mina'Bente Siete Na Liheslaturan Guåhan*  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 46 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 9 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES, AND TO MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL REQUIREMENTS SET OUT IN THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT," which I have signed into law on April 26, 2003 as Public Law 27-17.

Sincerely,

FELIX P. CAMACHO  
*I Maga'Lahen Guåhan*  
Governor of Guam

Attachment: copy attached of signed bill

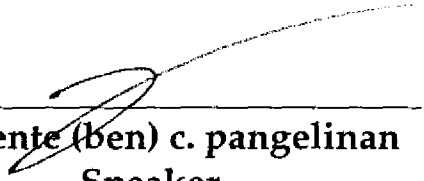
cc: The Honorable Tina Rose Muña-Barnes  
Senator and Legislative Secretary

Document No. 03-02165/1c

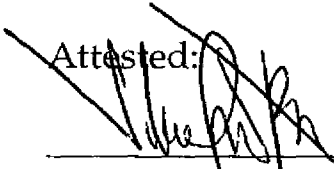
I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

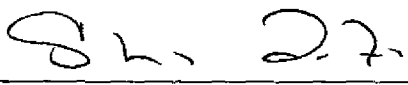
This is to certify that Substitute Bill No. 46 (COR), "AN ACT TO REPEAL AND REENACT CHAPTER 9 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING EDUCATIONAL AND TRAINING FACILITIES FOR ALL INDIVIDUALS WITH DISABILITIES, AND TO MAKING LOCAL LEGISLATION CONFORM WITH FEDERAL REQUIREMENTS SET OUT IN THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT," was on the 11<sup>th</sup> day of April, 2003, duly and regularly passed.

  
\_\_\_\_\_  
vicente (ben) c. pangelinan  
Speaker

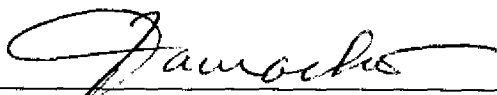
Attested:

  
\_\_\_\_\_  
Tina Rose Muña-Barnes  
Senator and Legislative Secretary

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This Act was received by *I Maga'lahen Guahan* this 15 day of April, 2003, at 5:30 o'clock  
P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahen Guahan*

Date: April 26, 2003

Public Law No. 27-17

**MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN**  
**2003 (FIRST) Regular Session**

**Bill No. 46 (COR)**

As substituted by the Committee on  
Education and Housing,  
and as amended on the Floor.

Introduced by:

C. Fernandez  
L. F. Kasperbauer  
T. R. Muña-Barnes  
R. J. Respicio  
F. B. Aguon, Jr.  
J. M.S. Brown  
F. R. Curliffe  
Mark Forbes  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
v. c. pangelinan  
J. M. Quinata  
Toni D. Sanford  
Ray Tenorio

**AN ACT TO REPEAL AND REENACT CHAPTER 9 OF  
TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO  
PROVIDING EDUCATIONAL AND TRAINING  
FACILITIES FOR ALL INDIVIDUALS WITH  
DISABILITIES, AND TO MAKING LOCAL LEGISLATION  
CONFORM WITH FEDERAL REQUIREMENTS SET OUT  
IN THE INDIVIDUALS WITH DISABILITIES EDUCATION  
ACT.**

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

2        **Section 1.** Chapter 9 of Title 17, Guam Code Annotated, is hereby

3        *repealed and reenacted* to read as follows:

1           **“Chapter 9. Education and Training Facilities and Opportunities**  
2                                   **For Individuals With Disabilities.**

3           **§9101. Declaration of Public Policy.** It is and shall be the duty of  
4 the various divisions and schools of the Department of Education to  
5 make available a free appropriate public education to all children with  
6 disabilities residing on Guam between the ages of birth through  
7 twenty-one (21) (inclusive) including children with disabilities who  
8 have been suspended or expelled. This Section and all other sections  
9 shall be in conformity with the Individuals with Disabilities Education  
10 Act (“IDEA”), its amendments, implementing regulations, and all other  
11 laws and regulations relating to the education of children with  
12 disabilities, Exception to Free Appropriate Public Education (“FAPE”)  
13 shall be made for students ages eighteen (18) through twenty-one (21)  
14 who, in the last educational placement prior to their incarceration to an  
15 adult correction facility (a) were not actually identified as being a child  
16 with a disability and (b) did not have an Individualized Education  
17 Program (“IEP”) under IDEA.

18           **Purpose of Chapter.** The purpose of this Chapter is to ensure  
19 that special education or related services are provided to all children  
20 with disabilities of public school age, or within the broader age limits  
21 provided in this Chapter.

22           **§9102. Definitions.** (a) All identified children with disabilities  
23 from birth through age twenty-one (21) described in the following  
24 paragraphs (b, c, d) are subject to the policies of the Guam Education  
25 Policy Board (the “Board”).

1           (b) The term "children with disabilities" means those children  
2 evaluated in accordance with the requirements of IDEA as having  
3 mental retardation, a hearing impairment including deafness, a speech  
4 or language impairment, a visual impairment including blindness,  
5 emotional disturbance, an orthopedic impairment, autism, traumatic  
6 brain injury, and other health impairment, a specific learning disability,  
7 deaf-blindness, or a multiple disability, and who because of that  
8 impairment need special education or related services. For students  
9 ages eighteen (18) to twenty-one (21), the Board shall promulgate  
10 policies that are aligned with current policies on the education for all  
11 students.

12           (c) The term "infant or toddler with a disability" means infant  
13 or toddler with a disability under three (3) years of age who needs early  
14 intervention services because they are experiencing developmental  
15 delays or have a diagnosed physical or mental condition that has a high  
16 probability of resulting in developmental delay. This includes infants  
17 or toddlers under three (3) years of age who are at risk of having  
18 substantial developmental delays as measured by appropriate  
19 diagnostic instruments and procedures if early intervention services are  
20 not provided.

21           (d) For individuals aged three (3) through five (5), the term  
22 "children with disabilities" means those children who are experiencing  
23 developmental delays, as defined by the Board and as measured by  
24 appropriate diagnostic instruments and procedures, in one (1) or more  
25 of the following areas: physical development, cognitive development,  
26 communication development, social or emotional development, or

1 adaptive development, and for that reason, these children need special  
2 education or related services.

3 (e) "Department" means the Department of Education.

4 (f) "Board" means the Guam Education Policy Board.

5 (g) "FAPE" means Free Appropriate Public Education.

6 (h) "IEP" means Individualized Education Program.

7 (i) "IDEA" means Individuals with Disabilities Education Act.

8 (j) "Parent" for purpose of IDEA means:

9 (1) a natural or adoptive parent of a child;

10 (2) a guardian but not the local government if the child is a  
11 ward of the government;

12 (3) a person acting in the place of a parent (such as  
13 grandparent or stepparent with whom the child lives, or  
14 a person who is legally responsible for the child's  
15 welfare); or

16 (4) a surrogate parent who has been appointed in  
17 accordance with IDEA.

18 **§9103. Child Find.** (a) The continuing IDEA Part "B" eligibility  
19 documents for Special Education will ensure that all children residing  
20 on Guam, including children with disabilities attending private schools,  
21 regardless of the severity of their disabilities, and who are in need of  
22 special education or related services, are identified, located or  
23 evaluated and a practical method is developed and implemented to  
24 determine which children with disabilities are currently receiving  
25 needed special education or related services. This also applies to highly  
26 mobile children with disabilities (such as migrant and homeless

1 children) and children suspected of being a child with a disability as  
2 defined in this Act and in need of special education, even though they  
3 are advancing from grade to grade. The policies and procedures for  
4 referral, evaluation, eligibility, or placement and the provision of FAPE  
5 shall be established by the Board through required continuing  
6 eligibility documents under Part "B" of IDEA and its amendments, and  
7 the Handbook for the Delivery of Special Education services.

8 (b) Referral. Pursuant to IDEA, children suspected of having a  
9 disability and who are in need of special education or related services  
10 are to be referred for an evaluation.

11 (c) In any procedure related to the identification, evaluation, or  
12 educational placement of the child or the provision of a free  
13 appropriate public education to the child, the Department of Education  
14 shall comply with those procedures stated in IDEA, its amendments,  
15 and implementing regulations. These include evaluation procedures,  
16 the development and implementation of an Individualized Education  
17 Program (IEP), determination of placement in the least restrictive  
18 environment, and the provision of a free appropriate public education.

19 (d) For individuals with disabilities from birth through age two (2),  
20 an Individualized Family Services Plan will:

21 1. Be developed by a multidisciplinary team (involved in the  
22 provision of early intervention services), including the parents.

23 2. Be based on a multidisciplinary assessment of the unique  
24 strengths and needs of the infant or toddler and the identification of  
25 services appropriate to meet such needs.

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

5           **§9104. Special Education Teachers, Classes, Materials,**  
6 **Opportunities, Day Schools, Hospital Classes and Home Instruction.**

7 The Department of Education shall, subject to the limitations specified  
8 in this Chapter, ensure appropriate special education teachers, aides,  
9 and materials for all children identified in accordance with IDEA as  
10 needing special education or related services, so that such children shall  
11 be provided instruction in the least restrictive environment and the  
12 establishment and maintenance of special classes occurs only when the  
13 nature and severity of the disability of a child is such that education in  
14 regular classes with the use of supplementary aids and services cannot  
15 be achieved satisfactorily. In addition, the Department of Education  
16 shall (i) provide for the proper training and development of special  
17 education teachers, aides and staff to ensure continued quality special  
18 education services, (ii) ensure that appropriate educational materials  
19 and supplies are furnished, and (iii) ensure that appropriate  
20 educational facilities are provided to ensure the provision of a free  
21 appropriate public education, as set forth in this Chapter. Such  
22 classrooms shall be located in an appropriate area within a school  
23 campus, given specific needs such as proximity to the special  
24 transportation pick-up and drop-off point, proximity to the nurses'  
25 office, and the like. Such classrooms, when specifically built for or  
26 utilized by children with disabilities, shall not be reassigned for any



1 other educational program needs, unless this reassignment is to  
2 relocate the children with disabilities to another appropriate classroom.

3 **§9105. Administration of the Chapter.** This Chapter shall be  
4 administered by the Superintendent of Education and the Board shall  
5 promulgate such rules and regulations as it may deem necessary for the  
6 proper administration of this Chapter. The Board shall prescribe the  
7 standards under which facilities are furnished or services purchased.  
8 The Superintendent of Education shall be responsible for administering  
9 such standards and conditions.

10 **§9106. Cooperation with other Agencies: Gifts and Donations.**  
11 The Division of Special Education and other school agencies are  
12 required to cooperate with other agencies within Guam, both public  
13 and private, that are interested in working toward the education or  
14 training of children with disabilities. Educational agencies are  
15 authorized to accept gifts, donations, or aid from such private agencies.

16 **§9107. Advisory Committee.** The Superintendent of Education  
17 shall establish and maintain an advisory panel on disabilities.  
18 Membership and roles of the panel shall comply with the requirements  
19 outlined in IDEA, its amendments, and implementing regulations.”

20 **Section 2. Severability.** *If any provision of this Law or its application*  
21 *to any person or circumstance is found to be invalid or contrary to law, such*  
22 *invalidity shall not affect other provisions or applications of this Law which*  
23 *can be given effect without the invalid provisions or application, and to this*  
24 *end the provisions of this Law are severable.*