

**MINA' TRENTA NA LIHESLATURAN GUÅHAN**  
2010 (SECOND) Regular Session

Bill No. 424-30(corr)

Introduced by:

B.J.F. Cruz



2010 JUN 18 PM 4: 31  
WJW

**AN ACT TO REPEAL AND RE-ENACT §3102 AND §3103, TO REPEAL §3108, §3111, §3111.1, §3112, §3113, §3114, §3115, §3116, §3117, §3118, §3119, §3120, §3123 AND §3124, AND TO ADD §3102.1, §3102.2, §3102.3, §3102.3.1, §3102.4, §3102.4.1, §3102.5, §3102.6 AND §3103.1, ALL TO CHAPTER 3 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE REORGANIZATION OF THE GUAM EDUCATION POLICY BOARD.**

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

2           **Section 1.** §3102 of Chapter 3 of Title 17 of the Guam Code  
3 Annotated is hereby *repealed* and *re-enacted* to read:

4                   **“§3102. Guam Education Board.**

5                   The governance of the Department of Education is vested in an  
6 education board to be known as ‘the Guam Education Board’  
7 (hereinafter referred to as ‘the Board’). The Board shall be composed  
8 of nine (9) members appointed by the Governor as provided herein,  
9 with the advice and consent of the Legislature.”

1           **Section 2.** §3102.1, §3102.2, §3102.3, §3102.4, §3102.4.1, §3102.5,  
2 and §3102.6 are hereby *added* to Chapter 3 of Title 17 of the Guam Code  
3 Annotated to read:

4                   **“§3102.1. Duties of the Guam Education Board.**

5           The Guam Education Board shall have general supervision over  
6 the Department of Education (hereinafter ‘Department’) and the  
7 control and direction of all funds of, and appropriated to, the  
8 Department subject to such restrictions as may be prescribed by law.  
9 The Board shall submit an annual budget to the Legislature in the  
10 manner prescribed by law. The Board shall have the authority to  
11 delegate such of its powers as it may deem appropriate, but shall  
12 retain the ultimate responsibility for the exercise of its powers.

13                   **§3102.2. Meetings of the Board.**

14           Meetings of the Board shall be held at a regular time and place  
15 as determined by the Board. Special meetings may be called by the  
16 Chairman or by a majority of the members, as often as may be  
17 necessary. Meetings of the Board shall be subject to the Open  
18 Government Law of Guam. Six (6) members shall constitute a  
19 quorum and an affirmative vote of five (5) members is required for  
20 any action to be valid.

21                   **§3102.3. Term of Office for Board Members.**

22           The members of the Guam Education Board shall serve a  
23 staggered term of five (5) years, except for the student member who  
24 shall serve a term of two (2) years. On the expiration of the term of  
25 any member, or in the event of a vacancy on the Board due to  
26 resignation, death, or any other cause, the Governor shall appoint  
27 another member, with the advice and consent of the Legislature, for a

1 full term in the first instance, or for the remainder of the unexpired  
2 term. When there is a change of administration of the government of  
3 Guam after a gubernatorial election, no courtesy resignation shall be  
4 requested by the new administration nor offered by any member of the  
5 Board.

6 **§3102.3.1 Provision for Staggered Terms.**

7 The current members of the Board shall continue to serve until  
8 the expiration of their terms. Upon passage of this act, the Governor  
9 shall appoint, subject to the advice and consent of the Legislature,  
10 four (4) members to serve three- (3) year terms, four- (4) members to  
11 serve five- (5) year terms, and the student member to serve a two- (2)  
12 year term. The preceding appointment of members, except the student  
13 member, shall be for a term of five (5) years.

14 **§3102.4. Qualification and Composition of Board**  
15 **Members.**

16 Board members and Board member candidates must be United  
17 States citizens or permanent resident aliens domiciled in Guam for at  
18 least three (3) years prior to appointment to the Board. No person  
19 shall sit on the Board as a member who is an employee of the  
20 Department of Education. The Guam Education Board shall be  
21 composed of nine (9) members, with at least one (1) of the following:

22 (1) One (1) who is employed in an upper level  
23 managerial position in a private business;

24 (2) One (1) who is selected from a list of not less than  
25 three (3) nominees by the Guam Parent Teacher Association  
26 Congress or its successor organization;

1                   (3) One (1) who is selected from a list of not less than  
2 three (3) nominees by the exclusive bargaining unit which  
3 represents teachers and other employees within the Department;  
4 and

5                   (4) One (1) who is selected from a list of not less than  
6 three (3) nominees by the Island-wide Board of Governing  
7 Students. Such nominees shall be students of the Department  
8 of Education. If such appointee ceases to be a student of the  
9 Department of Education, his term shall expire.

10                   **§3102.4.1. Officers of the Board.**

11                   Officers of the Board shall include the Chairperson and Vice  
12 Chairperson, and such other positions which the Board deems  
13 necessary to effectively carry out its responsibilities. Such Board  
14 officers upon election shall serve for a term of one (1) year. Board  
15 officers shall be elected by a majority vote of the members of the  
16 Board during one (1) of the Board's meetings held in January of each  
17 year. Members may serve as Chairperson for multiple terms, except  
18 that no person may serve as Chairperson for more than two (2)  
19 consecutive terms at a time.

20                   **§3102.5. Removal of Board Members.**

21                   A member of the Board may be removed by a vote of five (5)  
22 members for malfeasance in office or for persistent neglect of, or  
23 inability to discharge duties or for offenses involving moral turpitude.  
24 However, no member of the Board shall be removed from office  
25 before a written bill of particulars shall have been given to the accused  
26 and before an investigation and an open and public hearing shall have  
27 been had. Any member who removes his residence from Guam shall

1 be deemed to have vacated his office, thereby creating a vacancy on  
2 the Board.

3 A member of the Board shall be automatically removed from  
4 the Guam Education Board:

5 (a) upon conviction of a felony; *or*

6 (b) upon conviction of a misdemeanor involving the  
7 possession of a Controlled Substance or operation of a vehicle  
8 while under the influence of alcohol or a controlled substance.

9 **§3102.6. Stipend for Board Members.**

10 Members of the Board shall be paid the amount of One  
11 Hundred Dollars (\$100.00) for each day on which they attend a  
12 regular, special or executive meeting, not to exceed Two Hundred  
13 Dollars (\$200.00) in any month.”

14 **Section 3.** §3103 of Chapter 3 of Title 17 of the Guam Code  
15 Annotated is hereby *repealed and re-enacted* to read:

16 **“§3103. Superintendent of Education.**

17 The Superintendent of Education (the Superintendent) shall be  
18 the Chief Executive Officer of the internal operating organization of  
19 the Department of Education and shall be responsible for the  
20 administration of the academic and services activities thereof. The  
21 Board shall appoint the Superintendent of Education by an affirmative  
22 vote of at least six (6) members. Notwithstanding any other provision  
23 of law, the employment of the Superintendent shall be by contract  
24 term of four (4) years, which contract shall contain a provision that  
25 the Superintendent’s employment may only be terminated for cause,  
26 as defined in this Chapter. In the case of temporary absence of the  
27 Superintendent, the Superintendent may, after consultation with the

1 Chairperson of the Board, appoint among any of the Associate  
2 Superintendents, or their equivalents, an acting Superintendent.

3 The Superintendent shall:

4 (1) administer the day-to-day activities of the Department  
5 of Education;

6 (2) enforce and implement the education policies of the  
7 Board and rules and regulations of the Department;

8 (3) administer Federal funds/programs on behalf of the  
9 Department;

10 (4) serve as the Department's approving authority for the  
11 expenditure of funds;

12 (5) serve as the appointing authority for all personnel  
13 employed by the Department;

14 (6) be the Executive Secretary of the Board in an *ex-*  
15 *officio*, non-voting capacity;

16 (7) shall submit to the Board, *I Maga'lahaen Guåhan*, and  
17 *I Liheslaturan Guåhan* no later than thirty (30) days following  
18 the end of the fiscal year, a detailed "Annual State of Public  
19 Education Report," which shall discuss the public educational  
20 issues on Guam, and other subjects the Superintendent may  
21 deem appropriate, and shall also submit such fiscal,  
22 instructional, academic progress, and other information as may  
23 be required by the Board to reflect the quality of public  
24 education;

25 (8) develop and present to the people of Guam, the  
26 Board, *I Maga'lahaen Guåhan*, and *I Liheslaturan Guåhan* a

1 “School Performance Report Card” of each school, which shall  
2 be given in conjunction with the Annual Report;

3 (9) to perform other duties as may be required by public  
4 law to provide an adequate public educational system;

5 (10) to advise the Board on the current operations and  
6 status of the public schools and on other educational matters;

7 (11) to supply the Board with such information as it may  
8 require and prepare the Board to make recommendations to *I*  
9 *Maga’lahen Guåhan* and *I Liheslaturan Guåhan* for changes,  
10 additions, or deletions to public law;

11 (12) prepare a feasibility/impact/cost savings analysis for  
12 the Guam Education Board recommending the potential  
13 privatization of existing services for the Department;

14 (14) Notwithstanding any other provision of law or  
15 personnel rules and regulations, the Superintendent shall have  
16 the authority to assign, detail, or transfer employees to various  
17 physical locations within the Department. The Superintendent  
18 shall exercise such authority only in accordance with a policy  
19 adopted by the Board and shall not (1) cause a change in  
20 position title or job duties, or (2) contradict the provisions of  
21 any collective bargaining agreement in effect at the time of the  
22 transfer nor violate any employee’s rights thereunder;

23 (15) Adequate Public Education Reporting  
24 Requirements. The Superintendent of Education shall submit a  
25 monthly report of all funds available to the Department,  
26 whether or not their resources require appropriations by *I*  
27 *Liheslaturan Guåhan*. The report shall also contain a detailed

1 accounting of all expenditures of funds, relating such  
2 expenditures to the criteria established in Title 1 GCA §715 and  
3 the status of compliance with the Adequate Education Act. The  
4 report is to be completed no later than fifteen (15) calendar days  
5 after the end of each month and shall be certified by the  
6 Superintendent, acknowledging compliance with Title 1 GCA  
7 §715 and in meeting the objectives of §3125 of this Chapter.  
8 The report shall be submitted to the Board, the Speaker of *I*  
9 *Lihselaturan Guåhan*, and *I Maga'lahen Guåhan*.

10 (16) Conduct periodic assessments and management and  
11 curriculum audits of the Department for the following purposes:

12 (A) To ascertain whether the System is providing  
13 an adequate public education as defined by Title 1 GCA  
14 §715;

15 (B) To evaluate the effectiveness of Department  
16 administrators in implementing board policy and  
17 directives and in fulfilling assigned objectives;

18 (C) To evaluate the effectiveness of Department  
19 instructional personnel and their ability to meet  
20 curriculum goals; and

21 (D) To recommend alternatives to correct systemic  
22 deficiencies and to improve the ability of the Department  
23 personnel to fulfill assigned objectives.

24 Said audits shall also identify and assess  
25 deficiencies in the Department's organizational structure;  
26 compliance with federal and local laws and with board  
27 policies; physical and operational security; workflow



1 designs and management; internal controls; staffing  
2 levels and competencies; management levels and  
3 competencies; management practices; training standards  
4 and practices; adequacy of facilities; physical plant  
5 management; technical and administrative infrastructure;  
6 redundancy of systems and procedures; productivity and  
7 quality standards; recruitment, certification training of  
8 teachers, and recruitment, training, and staff  
9 development. Said audits shall be conducted at intervals  
10 determined by the Board of not less than three (3) years  
11 and no more than five (5) years.

12 The Guam Education Policy Board shall solicit  
13 audit proposals for said audits both locally and  
14 nationally. The Board shall create and maintain a list of  
15 qualified auditing firms that specialize in management  
16 and curriculum audits of schools and school districts. The  
17 Board shall transmit Requests for Proposals to all known  
18 qualified auditing firms and solicit through local and  
19 national publications.

20 (17) Promulgate rules and regulations for the  
21 implementation and operation of §§3127 through 3131 of  
22 this Title as necessary.”

23 **Section 4.** §3103.1 is hereby *added* to Chapter 3 of Title 17 of the  
24 Guam Code Annotated to read:

25 **“§3103.1. Termination of Superintendent.**

26 (a) Only the following constitute cause for the discharge of the  
27 Superintendent or Deputy Superintendent:

1 (1) Failure to meet performance standards as defined by a  
2 performance evaluation outline established and adopted by the  
3 Board;

4 (2) Holding financial interests that conflict with the  
5 conscientious performance of his or her duties;

6 (3) Engaging in financial transactions using confidential  
7 or non-public Department information or allowing the improper  
8 use of such information to further any private interests;

9 (4) except as permitted by statute or regulation, the  
10 solicitation or acceptance of any item of value from any person  
11 or entity seeking official action from, doing business with, or  
12 conducting activities regulated by the Department, or from  
13 persons whose interest may be substantially affected by the  
14 performance or nonperformance of the Superintendent's duties,  
15 or the duties of the Department;

16 (5) Knowingly making commitments or promises of any  
17 kind purporting to bind the Department except as permitted by  
18 law;

19 (6) Use of his or her official position for private gain or  
20 that of others;

21 (7) Failure to disclose waste, abuse, and corruption to the  
22 appropriate authorities;

23 (8) Failure to respect the rights and privacy of others and  
24 the use of his or her official position, authority, or other means  
25 to injure another person for personal reasons or malicious  
26 purposes;

1 (9) Fraud or misrepresentation in securing his or her  
2 appointment;

3 (10) Refusal or failure to perform duties and  
4 responsibilities as defined by law;

5 (11) Unlawful use, possession, or sale of illicit drugs and  
6 alcohol;

7 (12) Criminal acts involving moral turpitude;

8 (13) Political activity prohibited by law;

9 (14) Misuse, misappropriation, or theft of government  
10 property or funds;

11 (15) Prohibited acts of discrimination, including sexual  
12 harassment; or

13 (16) Abandonment of his or her position.”

14 **Section 5. Attorney for the Board.** §3108 of Chapter 3 of Title 17 of  
15 the Guam Code Annotated is hereby *repealed*.

16 **Section 6. Guam Education Policy Board.** §3111 of Chapter 3 of  
17 Title 17 of the Guam Code Annotated is hereby *repealed*.

18 **Section 7. Provisions for Staggered Terms.** §3111.1 of Chapter 3 of  
19 Title 17 of the Guam Code Annotated is hereby *repealed*.

20 **Section 8. Duties and Responsibilities of the Guam Education**  
21 **Policy Board.** §3112 of Chapter 3 of Title 17 of the Guam Code Annotated  
22 is hereby *repealed*.

23 **Section 9. Elected Members.** §3113 of Chapter 3 of Title 17 of the  
24 Guam Code Annotated is hereby *repealed*.

25 **Section 10. Nomination for Election to the Board.** §3114 of  
26 Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed*.

1           **Section 11. First Election: Terms.** §3115 of Chapter 3 of Title 17 of  
2 the Guam Code Annotated is hereby *repealed*.

3           **Section 12. Repeal of Temporary Governance by *I Maga'laha***  
4 ***Guåhan*.** §3116 of Chapter 3 of Title 17 of the Guam Code Annotated is  
5 hereby *repealed*.

6           **Section 13. Vacancies.** §3117 of Chapter 3 of Title 17 of the Guam  
7 Code Annotated is hereby *repealed*.

8           **Section 14. Severability as to Districting Formula.** §3118 of  
9 Chapter 3 of Title 17 of the Guam Code Annotated is hereby *repealed*.

10          **Section 15. Officers of the Board.** §3119 of Chapter 3 of Title 17 of  
11 the Guam Code Annotated is hereby *repealed*.

12          **Section 16. Budget.** §3120 of Chapter 3 of Title 17 of the Guam  
13 Code Annotated is hereby *repealed*.

14          **Section 17. Superintendent and Deputy Superintendent not part**  
15 **of Cabinet.** §3123 of Chapter 3 of Title 17 of the Guam Code Annotated is  
16 hereby *repealed*.

17          **Section 18. Removal of Elected Board Members.** §3124 of Chapter  
18 3 of Title 17 of the Guam Code Annotated is hereby *repealed*.

19          **Section 19. Implementation Provisions.** The provisions of this Act  
20 shall be effective immediately, *except* that members of the Board elected  
21 prior to this Act may serve the remainder of their terms. Upon passage of  
22 this Act, the Governor may begin appointing members to the Board, subject  
23 to the advice and consent of *I Liheslaturan Guåhan*. The first members  
24 appointed through this Act shall commence their term at 12:00 noon on the  
25 first Monday in January of 2011.

26          **Section 20. Severability.** If any provision of this Law or its  
27 application to any person or circumstance is found to be invalid or contrary

1 to law, such invalidity shall not affect other provisions or applications of this  
2 Law which can be given effect without the invalid provisions or application,  
3 and to this end the provisions of this Law are severable.

4

5