



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: Oct. 16, 1998

Time: 11:28 am

Rec'd by: [Signature]

Print Name: P. Poblete

OCT 16 1998

The Honorable Antonio R. Unpingco
Speaker
Mina'Bente Kuåtto na Liheslaturan Guåhan
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By: [Signature]

Time: 1:58 pm

Date: 10.16.98

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 672 (COR), "AN ACT TO *REPEAL* §6106 OF ARTICLE 1, CHAPTER 6, DIVISION 2 OF TITLE 17, AND TO *AMEND* §6504.1 OF ARTICLE 5, CHAPTER 6 OF TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY", which I have signed into law today as **Public Law No. 24-284**.

This legislation repeals an old code section, carried over and included in the amendments made to Guam's education laws in Public Law No. 24-142. This old code section allowed the Board(s) of Education to exclude a child from a public school classroom based on the child's physical or mental condition. This old provision is not consistent with the Americans With Disabilities Act.

In addition to repealing this old code section, this legislation allows licensed health care professionals working in the Department of Education to be employed by more than one department, agency or branch of the government. Currently, there are several other exceptions to the prohibition on dual government employment, most based on the scarcity of the type of employee.

01061

The legislation also allows a government retiree who receives an annuity and who returns to the Department of Education as a **substitute teacher** or as a **licensed health care professional**, to retain their annuity. The law currently allows a teachers, nurses, to return and retain their annuity, but does not specify that substitute teachers may also retain their annuity.

Very truly yours,



Carl T. C. Gutierrez
I Maga'lahañ Guåhan
Governor of Guam

Attachment: copy attached for signed bill
 original attached for vetoed bill

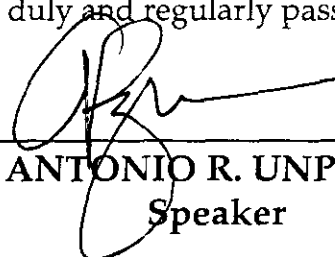
cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

01061


MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

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


This is to certify that Substitute Bill No. 672 (COR), "AN ACT TO REPEAL §6106 OF ARTICLE 1, CHAPTER 6, DIVISION 2 OF TITLE 17, AND TO AMEND §6504.1 OF ARTICLE 5, CHAPTER 6 OF TITLE 4, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY," was on the 2nd day of October, 1998, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahen Guahan this 6th day of October, 1998,
at 2:50 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: 10-16-98

Public Law No. 24-284

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN
1998 (SECOND) Regular Session

Bill No. 672 (COR)

As substituted by the Committee
on Education and amended on the
Floor.

Introduced by:

J. T. Won Pat
L. A. Leon Guerrero
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco

**AN ACT TO REPEAL §6106 OF ARTICLE 1,
CHAPTER 6, DIVISION 2 OF TITLE 17, AND TO
AMEND §6504.1 OF ARTICLE 5, CHAPTER 6 OF
TITLE 4, ALL OF THE GUAM CODE ANNOTATED,
RELATIVE TO EXCLUDING STUDENTS FROM
ATTENDING REGULAR SCHOOL CLASSES
BECAUSE OF PHYSICAL OR MENTAL
DISABILITY.**

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

2 **Section 1.** Section 6106 of Article 1, Chapter 6, Division 2 of Title 17 of
3 the Guam Code Annotated is hereby *repealed*.

4 **Section 2.** Section 6504.1 of Article 5, Chapter 6 of Title 4 of the Guam
5 Code Annotated is hereby *amended* to read as follows:

6 **“Section 6504.1. Dual Employment Prohibited.** No employee
7 of the government of Guam may be employed on a full-time, part-time
8 or contractual basis by more than one (1) department, agency or branch
9 of the government of Guam at any time, except for: (1) persons serving
10 as part-time teachers and University of Guam instructors for the Guam
11 Community College and instructors for the University of Guam who
12 may be employed during the summer; (2) persons employed by the
13 Youth Congress; (3) persons employed on a part-time basis by boards or
14 commission; (4) persons employed as nurses, physicians, licensed health
15 care professionals as ancillary health professionals in the Guam
16 Memorial Hospital Ancillary Services or the Department of Education;
17 (5) attorneys engaging in the active practice of law, or part-time Judges
18 or part-time court referees; or (6) persons employed on a part-time or
19 contractual basis who are individual and family counselors chemical
20 dependency specialists.”

21 **Section 3. Same. Suspension of Annuity Payment.** A retired
22 member who subsequently becomes an employee not ineligible for
23 membership under §8106 of this Title shall upon becoming so employed, have
24 his right to receive payment of his annuity suspended for the duration of his

1 employment, but all other rights pertaining to his annuity provided by the
2 Chapter, including automatic increases therein, shall be retained to him. The
3 provisions of this Section shall *not* be applicable to any person employed by
4 the Department of Education in Guam schools, such as a substitute teacher, a
5 classroom teacher, guidance, health counselor or licensed health care
6 professionals when such critical need arises. Such employment shall be on a
7 school year basis under contractual agreement. The provisions of this Section
8 shall *not* be applicable to any certified, registered, or licensed health care
9 professional or ancillary service personnel employed by the Guam Memorial
10 Hospital Authority; provided, that such person occupies a position for which
11 no other qualified applicants were available, or for which a critical need exists.

I MINA' BENTE MUATTRO NA LIHESLA TURAN GUAHAN

1998 (SECOND) Regular Session

Date: _____

VOTING SHEET

S. Bill No. 672

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, Frank B., Jr.	✓			✓
BARRETT-ANDERSON, Elizabeth	 	 	 	
BLAZ, Anthony C.	✓			
BROWN, Joanne M. S.	✓			
CAMACHO, Felix P.	✓			
CAMACHO, Francisco P.	✓			
CHARFAUROS, Mark C.	✓			
CRUZ, Eduardo J.	✓			
FLORES, William B.S.M.	✓			
FORBES, Mark	✓			
KASPERBAUER, Lawrence F.	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta A.	✓			
LEON GUERRERO, Lou	✓			
PANGELINAN, Vicente C.	✓			
SALAS, John C.	✓			
SANTOS, Angel L.G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WON PAT, Judith T.	✓			

TOTAL

20 _____

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature



**TWENTY-FOURTH GUAM LEGISLATURE
COMMITTEE ON EDUCATION**

215-A Chaian Papa, Suite 106-F
Ada's Professional & Commercial Center
Agaña, Guam 96910

Telephone (671) 475-KIDS
Fax (671) 475-2000
e-mail lk4kids@ite.net

Senator
**Lawrence F.
Kasperbauer**
Chairman

July 25, 1998

Senator
**John C.
Salas**
Vice Chairman

The Honorable Antonio R. Unpingco
Speaker, 24th Guam Legislature
Agana, Guam

Speaker
**Antonio R.
Unpingco**
Ex-Officio

via: Committee on Rules

Senator
**Thomas C.
Ada**
Member

Dear Mr. Speaker:

Senator
**Frank B.
Agon**
Member

The Committee on Education to which was referred **Bill No. 672: "AN ACT TO REPEAL §6106 OF ARTICLE 1, CHAPTER 6, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY,"** herein reports back with the recommendation **TO DO PASS Substitute Bill No. 672.**

Senator
**Elizabeth
Barrett-
Anderson**
Member

Vice Speaker
**Anthony C.
Blaz**
Member

Votes of the committee members are as follows:

Senator
**Joanne M.S.
Brown**
Member

8 To Pass

Senator
**Felix P.
Camacho**
Member

_____ Not To Pass

Senator
**Frank P.
Camacho**
Member

_____ To The Inactive File

_____ Abstained

Senator
**Edwardo J.
Cruz**
Member

Sincerely,

Senator
**Mark
Forbes**
Member

LAWRENCE F. KASPERBAUER

Senator
**Angel L.G.
Santos**
Member

Attachments

Senator
**Judith
Won Pat-
Borja**
Member



**TWENTY-FOURTH GUAM LEGISLATURE
COMMITTEE ON EDUCATION**

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Senator
**Lawrence F.
Kasperbauer**
Chairman

Senator
**John C.
Salas**
Vice Chairman

Speaker
**Antonio R.
Unpingco**
Ex-Officio

Senator
**Thomas C.
Ada**
Member

Senator
**Frank B.
Aguon**
Member

Senator
**Elizabeth
Barrett-
Anderson**
Member

Vice Speaker
**Anthony C.
Blaz**
Member

Senator
**Joanne M.S.
Brown**
Member

Senator
**Felix P.
Camacho**
Member

Senator
**Frank P.
Camacho**
Member

Senator
**Edwardo J.
Cruz**
Member

Senator
**Mark
Forbes**
Member

Senator
**Angel L.G.
Santos**
Member

Senator
**Judith
Won Pat-
Borja**
Member

July 25, 1998

**TO: All Members
Committee on Education**

FROM: Chairman

SUBJ: Voting Sheet

Transmitted herewith is the voting sheet and committee report for **Substitute Bill No. 672:**
"AN ACT TO REPEAL §6106 OF ARTICLE 1, CHAPTER 6, TITLE 17, GUAM CODE
ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING
REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL
DISABILITY."

Your attention to this matter is greatly appreciated.

Sincerely,


LAWRENCE F. KASPERBAUER

Attachments

COMMITTEE ON EDUCATION
TWENTY-FOURTH GUAM LEGISLATURE
 155 Hesler Street, Agana, Guam 96910

Chairman: Senator Lawrence F. Kasperbauer Vice Chairman: Senator John C. Salas Ex-Officio Member: Speaker Antonio R. Unpingco

VOTING SHEET ON:

Substitute Bill No. 672: "AN ACT TO REPEAL §6106 OF ARTICLE 1, CHAPTER 6, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY."

<u>COMMITTEE MEMBERS</u>	<u>INITIAL</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
Sen. Lawrence F. Kasperbauer <i>Chairman</i>	<u>Lfk</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. John C. Salas <i>Vice-Chairman</i>	<u>JCS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Spkr. Antonio R. Unpingco <i>Ex-Officio Member</i>	<u>AU</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Thomas C. Ada <i>Member</i>	<u>2</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Frank B. Aguon, Jr. <i>Member</i>	<u>[Signature]</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Anthony C. Blaz <i>Member</i>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sen. Joanne M.S. Brown <i>Member</i>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sen. Felix P. Camacho <i>Member</i>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sen. Francisco P. Camacho <i>Member</i>	<u>[Signature]</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Eduardo J. Cruz <i>Member</i>	<u>EJC</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Mark Forbes <i>Member</i>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Sen. Angel L.G. Santos <i>Member</i>	<u>AS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Sen. Judith Won Pat-Borja <i>Member</i>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

MINA' BENT KUÅTRO NA LIHESLAT RAN GUÅHAN
Committee on Education
Senator Lawrence F. Kasperbauer, Chairperson

Committee Report
on

Bill No. 672 (COR): AN ACT TO REPEAL SECTION 6106 OF ARTICLE 1, CHAPTER 6, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY.

I. OVERVIEW

The Committee on Education held a public hearing on Monday, July 20, 1998 at 9:00 a.m. at the Legislative Public Hearing Room. Public Notice of the hearing was announced in the July 13 issue of the Pacific Daily News.

Committee Members Present:

Senator Lawrence F. Kasperbauer, Chairperson
Senator John C. Salas, Vice Chairperson
Senator Frank B. Aguon, Jr., Member

Providing Testimony on the Bill:

Ed R. Chanco, GDDC (Written/Oral)
Dr. Joseph L. De Torres, Chief of Staff, Sen. Won Pat Borja's Office (Oral)
Mr. Vincent T. Leon Guerrero, Associate Superintendent for Special Education, DOE (Oral)
Mr. Roland L.G. Taimanglo, Director of Education (written)
Mr. Joseph Artero-Cameron, Director, Department of Integrated Services for Individuals with Disabilities (Written)
Ms. Trini Torres (Oral)

II. Testimony

Ed R. Chanco, Chairperson, Legislative Committee, Guam Developmental Disabilities Council (GDDC). Mr. Chanco testified in favor of the Bill. He noted the provisions of §6106 of Title 17 are in violation of the Individuals with Disabilities Education Act of 1975 as re-authorized in 1997, which directs local education agencies to "Free and Appropriate Public Education (FAPE)" in a least restrictive and inclusive environment.

Dr. Joseph L. De Torres, Chief of Staff, Sen. Won Pat Borja's Office. Dr. De Torres testified in favor of the Bill.

Mr. Vincent T. Leon Guerrero, Associate Superintendent for Special Education, DOE. Mr. Leon Guerrero testified in favor of the Bill. He noted the provisions as existing since the 15th Guam Legislature are "archaic" and in violation of the federal Americans with Disabilities Act and the Individuals with Disabilities Education Act.

Mr. Roland L.G. Taimanglo, Director of Education. Mr. Taimanglo presented testimony in favor of the Bill. He pointed out that the provisions of §6106 of Title 17 violate the Americans with Disabilities Act. He also mentioned that the Section has been misinterpreted by school administrators to imply that they may take it upon themselves to exclude students with disabilities from their schools.

Mr. Joseph Artero-Cameron, Director, Department of Integrated Services for Individuals with Disabilities (DISID). Mr. Artero-Cameron testified in favor of the Bill. He cited the need to encourage full integration of persons with disabilities into the mainstream of our society.

Ms. Trini Torres, Ms. Torres testified in favor of the Bill.

III. Findings and Recommendation

The Committee on Education finds the provisions of §6106 of Title 17, GCA are outdated, archaic and contrary to the provisions of the Americans With Disabilities Act. The Committee supports the inclusion and not the exclusion of students with disabilities in all aspects of campus life. The Committee agrees with the removal of §6106 from Title 17, GCA in its entirety but disagrees with the contention in legislative findings that §6106 was a result of P.L 24-142 I Eskula-ta Reform Act of 1997. This provision has been in place since the mid 1970s. P.L. 24-142 is a measure to address the Administration of the Guam Public School System. Prior to the enactment of P.L. 24-142, the Board of Education was given authority under this section to exclude students, Public Law 24-142 just changed the language from Board of Education to District Board since the Board of Education upon enactment would cease to exist. Although the sponsors of P.L. 24-142 were aware that many areas of existing education law were outdated, needed changing or elimination completely, the standing rules of the Guam Legislature requires that all pieces of legislation be single-subject in nature. Therefore, it is the recommendation of the Committee that as the Legislative intent blames P. L. 24-142 in error as the source of this Section, that Legislative intent section be deleted in its entirety. The Committee does not see the need for an effective date section stating that the "act shall take effect immediately upon its enactment" since all provisions of law take effect upon enactment unless otherwise provided for.

It is the recommendation of the Committee on Education that Bill No. 672 (COR) As Substituted by the Committee on Education be reported out with the recommendation **TO DO PASS**

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

September 19, 1997

CONTACT PERSONS

Names: JoLeta Reynolds
Rhonda Weiss
Telephone: (202) 205-5507

MEMORANDUM

OSEP 97-7

TO: Chief State School Officers

FROM: Judith E. Heumann
Assistant Secretary, Office of Special Education and Rehabilitative Services

Thomas Hehir
Director, Office of Special Education Programs

SUBJECT: Initial Disciplinary Guidance Related to Removal of Children with Disabilities from their Current Educational Placement for Ten School Days or Less

INTRODUCTION

The purpose of this memorandum is to provide initial guidance on the requirements of the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97) as they relate to the removal of children with disabilities from their current educational placement for ten school days or less. The Department has received numerous requests for guidance concerning the discipline provisions of IDEA '97. The Department plans to regulate in each of the areas where clarification is needed.

Four basic themes run throughout the statute concerning discipline:

- (1) All children, including children with disabilities, deserve safe, well-disciplined schools and orderly learning environments;
- (2) Teachers and school administrators should have the tools they need to assist them in preventing misconduct and discipline problems and to address these problems, if they arise;
- (3) There must be a balanced approach to the issue of discipline of children with disabilities that reflects the need for orderly and safe schools and the need to protect the right of children with disabilities to a free appropriate public education (FAPE); and
- (4) Appropriately developed IEPs with well developed behavior intervention strategies decrease school discipline problems.

With regard to discipline for children with disabilities, IDEA '97:

- ☐ Brings together for the first time in the Statute the rules that apply to children with disabilities who are subject to disciplinary action and clarifies for school personnel, parents, students, and others how school disciplinary rules and the obligation to provide FAPE fit together by providing specificity about important issues such as whether educational services can cease for a disabled child; how manifestation determinations are made; what happens to a child with disabilities during parent appeals; and how to treat children not previously identified as disabled.
- ☐ Includes the regular education teacher of a child with a disability in the child's IEP meetings to help ensure that the child receives appropriate accommodations and supports within the regular education classroom, and gives the regular teacher an opportunity to better understand the child's needs and what will be necessary to meet those needs, thus decreasing the likelihood of disciplinary problems.
- ☐ Allows school personnel to move a student with disabilities to an interim alternative educational setting for up to 45 days, if that student has brought a weapon to school or a school function, or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.
- ☐ Gives school personnel the option of asking a hearing officer to move children with disabilities to an interim alternative educational setting for up to 45 days, if they are substantially likely to injure themselves or others in their current placement.

INITIAL GUIDANCE REGARDING REMOVAL OF CHILDREN WITH DISABILITIES FROM THEIR CURRENT PLACEMENT

We recognize that the statute is susceptible to a number of interpretations in some areas related to discipline, but the position enunciated below represents what we believe is the better reading of the statute. We are providing this information (in a question and answer format) to assist States and school districts in implementing IDEA '97 prior to publication of Department regulations. To the extent these questions and answers provide information not specifically addressed in the Statute, the information is being provided as non-binding/non regulatory guidance. We will be issuing proposed regulations in the near future that reflect the positions taken in this document.

QUESTION 1: Under IDEA, do public agencies have a responsibility, as part of the *IEP process*, to consider a child's behavior?

ANSWER: Yes. Section 614(d)(2)(B) requires the IEP team "in the case of a child whose behavior impedes his or her learning or that of others, [to] consider, when appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior." In addition, school districts should take prompt steps to address misconduct when it first appears. Such steps could, in many instances, eliminate the need to take more drastic measures. These measures also could be facilitated through the individualized education program (IEP) and placement processes required by IDEA. For example, when misconduct appears, a functional behavioral assessment could be conducted, and determinations could be made as to whether the student's current program is appropriate and whether the student could benefit from the provision of more specialized instructional and/or related services, such as counseling, psychological services, or social-work services in schools. In addition, training of the teacher in

effective use of conflict management and/or behavior management strategies also could be extremely effective. In-service training for all personnel who work with the student, and, when appropriate, other students, also can be essential in ensuring the successful implementation of the above interventions.

QUESTION 2: Does the right to a free appropriate public education extend to children with disabilities who are suspended or expelled?

ANSWER: Yes. A free appropriate public education must be made available to all eligible children with disabilities, including children with disabilities who have been suspended or expelled from school. (Section 612(a)(1))

QUESTION 3: What is the meaning of the phrase "children with disabilities who have been suspended or expelled from school"?

ANSWER: The Department believes that the phrase means children with disabilities who have been removed from their current educational placement for more than ten school days in a given school year.

QUESTION 4: Must educational services be continued during the removal of a child with a disability from his or her educational placement for ten school days or less?

ANSWER: No. The Department does not believe that it was the intent of Congress to require that FAPE be provided when a child is removed for ten school days or less during a given school year. However, there is nothing in the IDEA '97 that would prevent the provision of FAPE during this time.

QUESTION 5: Must there be a manifestation determination before a student with disabilities can be removed from his or her current education placement for a period of ten school days or less during a given school year?

ANSWER: No. The Department does not believe that the statute requires a manifestation determination prior to a removal for a period of ten school days or less in a given school year. However, if an action that involves the removal of a child with a disability from his or her current educational placement for more than ten school days in a given school year is contemplated, the Department believes that a manifestation determination would be required, and the manifestation determination must take place as soon as possible but in no case later than ten school days after the decision to take that action is made. (615(k)(4)(A))

QUESTION 6: Must a functional behavioral assessment be conducted prior to a removal of ten school days or less during a given school year?

ANSWER: No. The Department does not believe the statute requires a functional behavioral assessment, if a child with a disability is removed from his or her current educational placement for ten school days or less in a given school year, and no further disciplinary action is contemplated.

QUESTION 7: Are there any specific actions that a school district is required to take during a removal of a child with a disability from his or her educational placement for ten school days or less?

ANSWER: If no further removal is contemplated, the Department does not believe that other specific actions are required during this time period. However, school districts are strongly encouraged to review as soon as possible the circumstances that lead to the child's removal and consider whether the child was being provided services in accordance with the IEP and whether the behavior could be addressed through minor classroom or program adjustments, or whether the IEP team should be reconvened to address possible changes to the IEP.

QUESTION 8: Does IDEA continue to allow a school district to seek a court order to remove a student with a disability from school or otherwise change the student's placement? If so, under what circumstances?

ANSWER: Yes. IDEA continues to allow a school district to seek to obtain a court order to remove any student with a disability from school or to change the student's current educational placement if the school district believes that maintaining the student in the current educational placement is substantially likely to result in injury to the student or to others.¹

In addition, the new statute allows school authorities to ask a hearing officer to move children with disabilities to an interim alternative educational setting for up to 45 days if they are substantially likely to injure themselves or others in their current placement. The hearing officer may move the child to an alternative educational setting if the public agency demonstrates by evidence that is more than a preponderance of the evidence that maintaining the child in the child's current placement is substantially likely to result in injury to the child or others. The hearing officer must consider the appropriateness of the child's placement, whether the school district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services, and determine that the interim alternative educational setting meets the requirements of section 615(k)(3) of the Act.

cc: State Directors of Special Education
RSA Regional Commissioners
Regional Resource Centers
Federal Resource Center
Special Interest Groups
Parent Training Centers
Independent Living Centers
Protection and Advocacy Agencies

¹Honig v. Doe, 108 S. Ct. 592, 606 (1988).



Roland L.G. Taimanglo
Director

DEPARTMENT OF EDUCATION

P.O. Box DE
Agana, Guam 96932
Tel: (671) 475-0457
Fax: (671) 472-5003



Aline A. Yamasita, Ph.D.
Deputy Director

July 14, 1998

Senator Larry Kasperbauer, Chairman
Committee on Education
Mina' Bente Kuattro Na Liheslaturan Guahan
155 Hesler Place
Hagatña, GU 96910

Dear Senator Kasperbauer:

Thank you for giving our department the opportunity to provide testimony on Bill 672 (COR).

We are grateful to Senator Judith Won Pat-Borja, Senator Lou Leon Guerrero, and Senator Thomas Ada for introducing this bill. This bill was developed with direct input and involvement of the Department of Education, especially the Division of Special Education program personnel.

The problem is with Section 6106 of P.L. 24-142 is enumerated in Section 1 of Bill 672 (COR). This problem was created by the language of P.L. 24-142, which authorizes each District Board of Education to exclude a student with a physical or mental disability from attendance at regular school classes if the student's attendance would be inimical to the welfare of other students. Section 6106 further provides that the District Board obtain a certified statement from a qualified physician or psychiatrist that a child is so physically or mentally disabled that he is unable to benefit from school attendance and that attendance would be inimical to the welfare of the other students if the District Board chooses to exclude such students.

Not only is this in direct violation of both federal and local law (P.L. 22-119) in relation to the right of a student with a disability to attend school, there is an urgency to immediately repeal this section of the Eskuelata Reform Act of 1997 because it has already caused problems with those who are reading this section and interpreting what authority it provides school principals and school districts.

Citing the authority of Section 6106, there has already been a mis-interpretation that a school principal may exclude an entire special education program from the campus of that particular school. The administrator wanted the Special Education Division to find another school campus to house and administer the program because that administrator felt that Section 6106 gave them such authority to say that while the program was beneficial to the students in the program, it was not welcome in their "back yard".

COMMONWEALTH NOW!

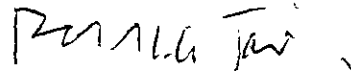


While it is understandable that Section 6106 was not new language that was created under the Eskuelata Reform Act of 1997 and was in fact old code that was updated to reflect the authority of local school district Boards of Education versus the new Department of Education, it should never have been allowed to remain in the new Title 17 education codes. It should have been deleted in its entirety as had been advocated by members of our department as this bill's merits and demerits were being deliberated in this legislative building.

We cannot wait for more comprehensive amending language that are necessary in order to properly implement the legislative policy and intent contained in the Eskuelata Reform Act of 1997. To wait any further is to say to students with disabilities (and their families) that we have turned back the clock to the 1950s where a demi-god has to decide who is able to benefit from an education. We must delete Section 6106 in its entirety immediately to reflect a "zero reject" public policy for any child who has a disability to be able to attend school, regardless of the severity of that child's particular mental or physical disability.

Thank you for the opportunity to provide this testimony.

Si Yu'os Ma'ase',

A handwritten signature in black ink, appearing to read "Roland L.G. Taimanglo", with a stylized flourish at the end.

ROLAND L.G. TAIMANGLO

CARL T.C. GUTIERREZ
Governor of Guam

MADELEINE Z. BORDALLO
LT. Governor



Joseph Artero-Cameron
Director

John Santos Taitano
Deputy Director/Operations

Tina Mada Barnes
Deputy Director/Administration

DISID Testimony for Public Hearing on Bill No. 672
Monday, 20 July 1998

Senator Lawrence Kasperbauer
Chairperson, Committee on Education
I Mina Benti Kuatiro na Libeslanuran Guahan
Hagana, Guam 96910

Hafa Adai!

My name is Joseph Artero-Cameron, Director of the Department of Integrated Services for Individuals with Disabilities (DISID). I am here today to testify on Bill Number 672, An Act to Repeal Section 6106 of Article 1, Chapter 6, Title 17, Guam Code Annotated, Relative to Excluding Students from Attending Regular School Classes because of Physical or Mental Disability. As Director of the Government of Guam agency which has direct purview over all issues affecting those members of our community who have disabilities, I am compelled to encourage the passage of Bill 672 into public law.

It is imperative that we, as a community, encourage the full integration of persons with disabilities into the mainstream of our society. The classroom, Mr. Chairperson, is not to be excluded from this endeavor. Gone are the days of isolation and segregation! As persons dedicated to the welfare and well-being of all persons with disabilities, the DISID advocates for the inclusion of individuals with disabilities in all facets of daily life. Children with disabilities in school require reasonable accommodation, and it is our responsibility as public servants to ensure that all children with disabilities receive special educational services when required. It is not our responsibility to castigate them by excluding them from "regular school classes". This, Mr. Chairperson, is contrary to our own beliefs in the rights of children to receive and have access to quality public education.

Bill No. 672 is a smart piece of legislation, and I would like to thank Senator Won Pat-Borja for introducing it and for standing up for the rights of our exceptional children. Section 6106 is an antiquated piece of legislation, and I am confident, Mr. Chairperson, that under your stewardship, such out-moded and detrimental policies will have no place in Guam's code of laws.

DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES
DIPATAMENTON PROGRAMA PARA I MANINUTET

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5B

164000 ft

5C

186000 ft

57000 ft

57000 ft

166000 ft

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162000 ft

19000 ft



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500000 ft 164000 ft

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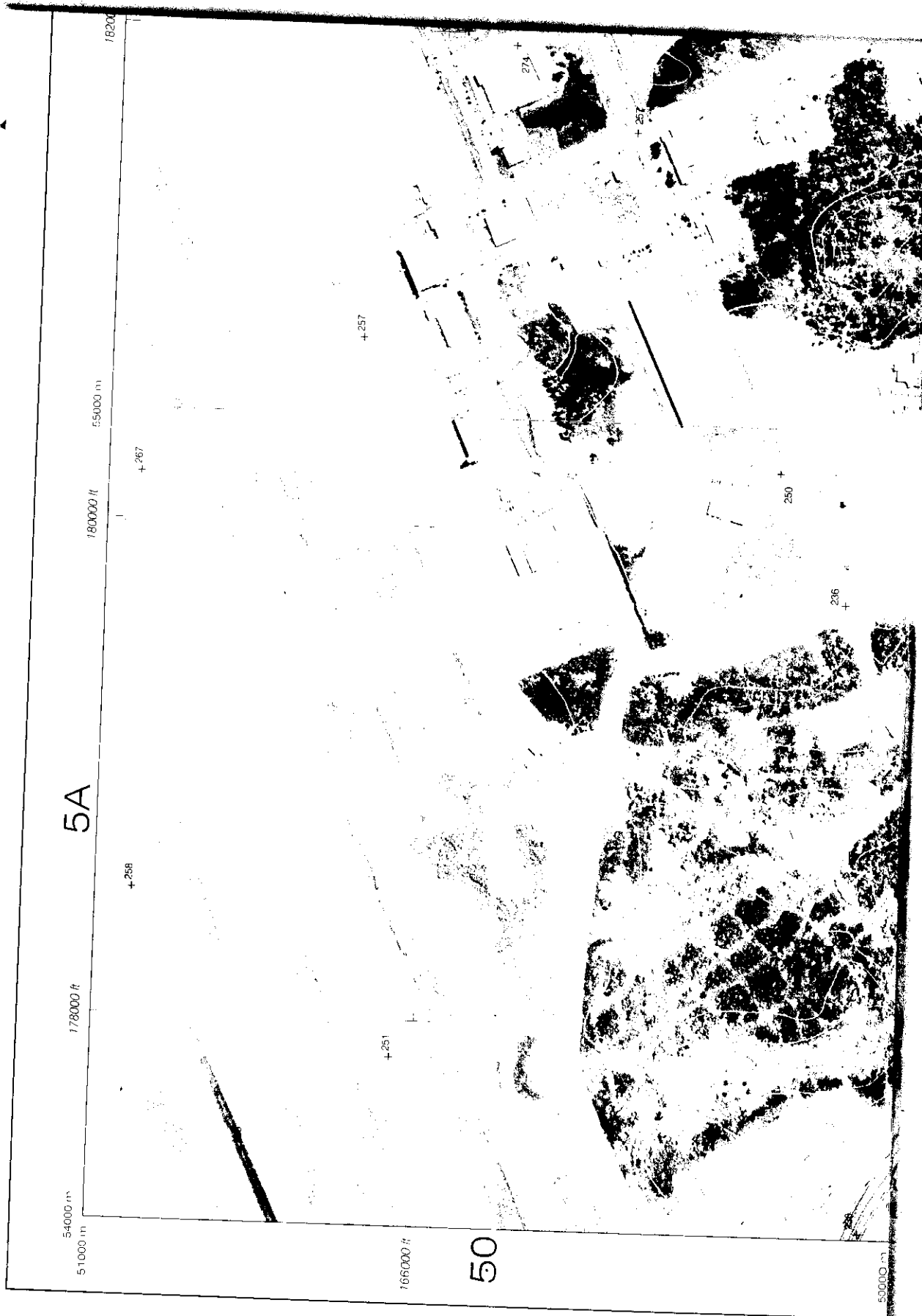
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162000 1/2

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THE DEPARTMENT OF LAND MANAGEMENT AND BUREAU OF PLANNING, GOVERNMENT OF GUAM

PREPARATION OF THIS MAP FINANCED IN PART BY THE
U.S. DEPARTMENT OF THE INTERIOR

CONTROLLED ORTHOPHOTOGRAPHY FROM 1:26,000 SCALE
PHOTOGRAPHS TAKEN, JANUARY 1984
PROJECTION: UTM GRID QUANTITATIVE TRIANGULATION
NET COORDINATE SYSTEM 1983 DATUM

PREPARED BY:
PERRY PHOTO ASSOCIATES TRI-TECHNOLOGY CORP.
SUVA, FIJI VICTORIA, B.C. CANADA
ENGINEERING CONTROL ORTHOPHOTOGRAPHY

DIGITAL ORTHOPHOTO IMAGERY PRODUCED
ON INTERGRAPH EQUIPMENT

THIS MAP COMPLIES WITH NATIONAL
MAP ACCURACY STANDARDS
IMAGES OF OBJECTS NOT AT GROUND
LEVEL MAY BE DISPLACED

DATUM IS MEAN SEA LEVEL 1983

1,000 METER LINE GRID

2,000 FOOT GRID TICKS

CONTOUR INTERVAL 10 FEET

TOTAL MAP SHEETS 74

SHEET INDEX

46	47	48
42	43	44
34	35	36





160000 1/2

48

158000 1/2

156000 1/2



1:56000 ft

47

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180000 ft

57000 m



SCALE 1 : 4800
1" = 400'

MAP NO. 43

U N O

SCALE: 1" = 20 METERS

OT 2264-1-R3
ANCES H. CEPEDA
EA = 11,322 SQ. M.

R/W

LOT 2265-REM-8-10
VICENTE and MARIA CONCEPCION
AREA = 7,141 SQ.M.

LOT 2265-REM-8-11-1
AREA = 2,333 SQ.M.

LOT 2265-REM-8-11-2

LOT 2265-REM-8-11-R2

~~LOT 2265-REM-8-11~~ A = 2,333 SQ.M.

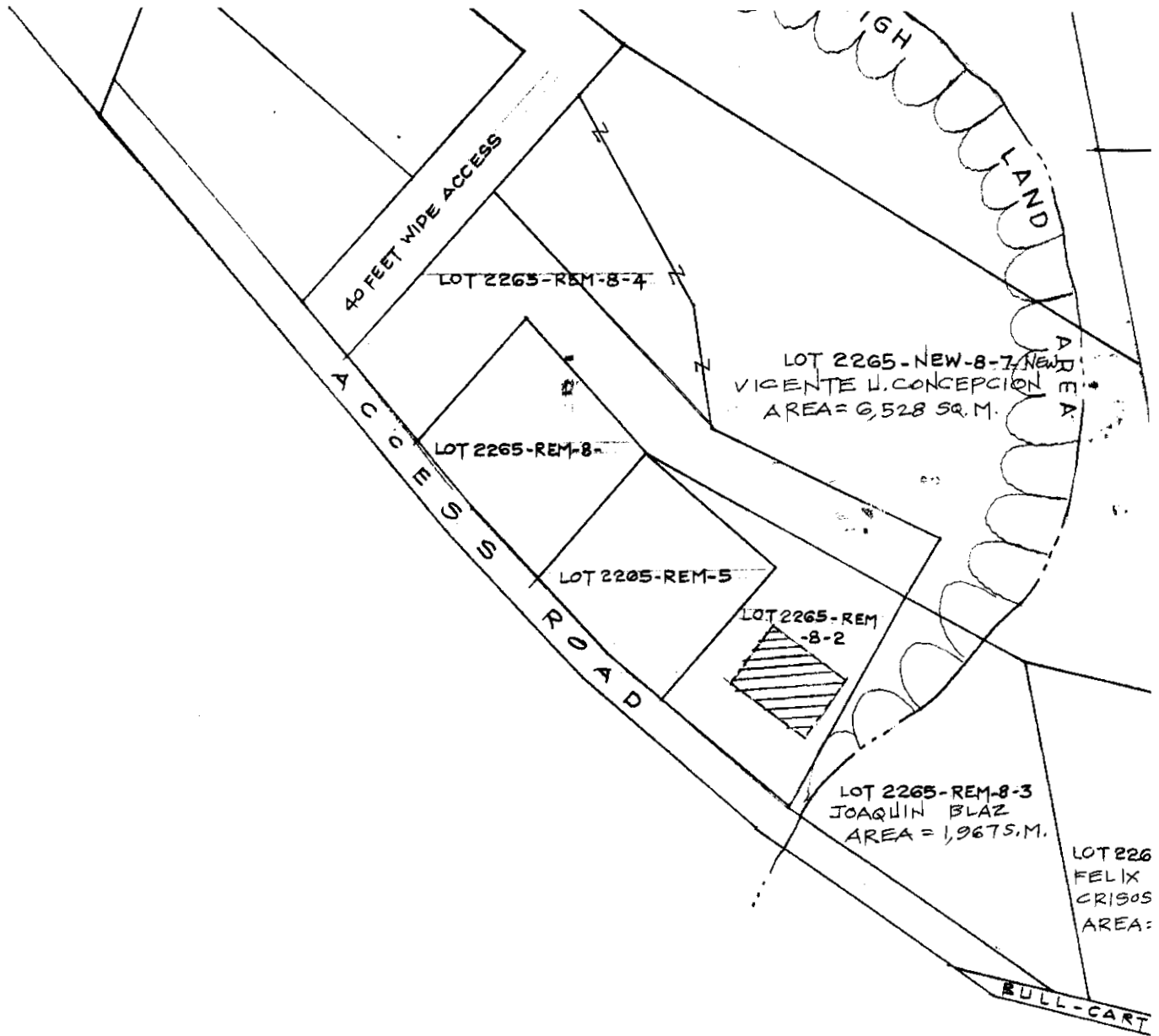
AREA = 2,334 SQ.M.

ZACHARY L. G. CONCEPCION

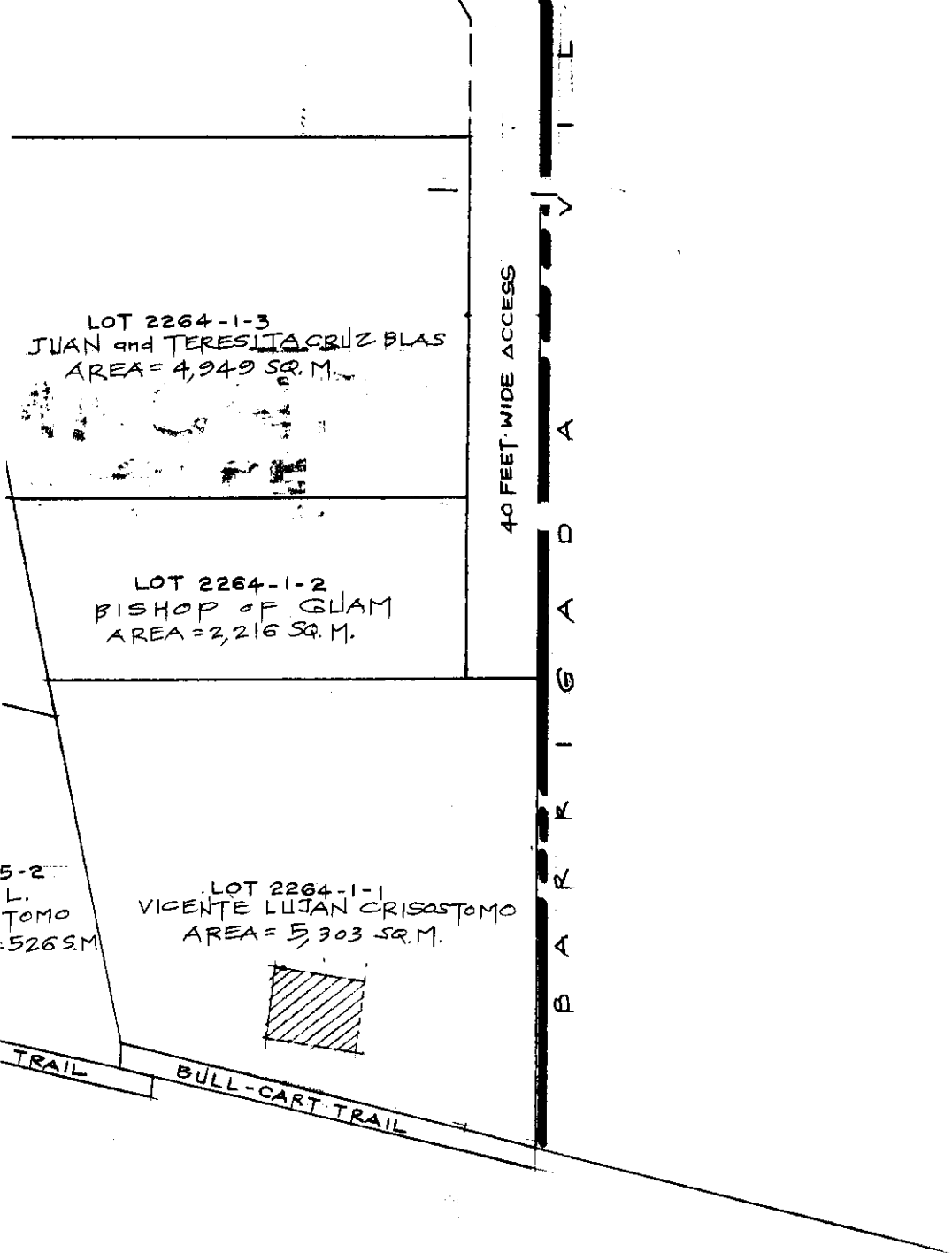
APPROXIMATE

MILISSA L. G. CONCEPCION
AREA = 7,000 SQ.M.

LOT 2265-REM-8-11-3



**PROPOSED COI
RECREATIO**



LOT 2264-1-3
JUAN and TERESITA CRUZ BLAS
AREA = 4,949 SQ. M.

LOT 2264-1-2
BISHOP OF GUAM
AREA = 2,216 SQ. M.

LOT 2264-1-1
VICENTE LUJAN CRISOSTOMO
AREA = 5,303 SQ. M.

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L.
TOMO
526 SQ. M.

40 FEET WIDE ACCESS

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BULL-CART TRAIL

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NOTICE OF PUBLIC HEARING

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN

COMMITTEE ON EDUCATION

Senator Lawrence F. Kasperbauer, Chairman

9:00 A.M., Monday, July 20, 1998

Liheslaturan Guahan, Hagåtña

AGENDA

- APPOINTMENT OF MS. GRACE S. LUCES AS A MEMBER TO THE GUAM PUBLIC LIBRARY BOARD.
- BILL 623-RELATIVE TO REQUIRING CERTIFICATION OF CHAMORRO LANGUAGE TEACHERS. (L.F. KASPERBAUER)
- BILL 682-RELATIVE TO EXTENDING EDUCATIONAL OPPORTUNITIES TO PROSPECTIVE SCHOOL PRINCIPALS AND GUIDANCE COUNSELORS ALONG WITH TEACHERS BY CREATING THE DR. ANTONIO C. YAMASHITA EDUCATOR CORPS.(L.F. KASPERBAUER)
- BILL 662-RELATIVE TO TUITION WAIVERS FOR VETERANS. (FELIX P. CAMACHO)
- BILL 671- RELATIVE TO ESTABLISHING BOARD POLICY THAT SHALL PROVIDE FOR THE IDENTIFICATION & ENROLLMENT OF A CHILD WHO IS ACADEMICALLY GIFTED, ALLOWING HIM OR HER TO ENROLL EVEN THOUGH HE OR SHE HAS NOT REACHED THE AGE REQUIRED BY §6103 OF CHAPTER 6, TITLE 17 GCA BUT NOT LOWER THAN AGE 4 BY THE END OF THE MONTH THAT CLASSES ACTUALLY COMMENCE OF THE YEAR THE CHILD IS ENROLLED. (J. WON PAT-BORJA)
- BILL 672- AN ACT TO REPEAL §6106 OF ARTICLE 1, CHAPTER 6, TITLE 17 GCA, RELATIVE TO EXCLUDING STUDENTS FROM ATTENDING REGULAR SCHOOL CLASSES BECAUSE OF PHYSICAL OR MENTAL DISABILITY. (J. WON PAT-BORJA)
- BILL 681- RELATIVE TO EXTENDING THE DATE FOR INITIAL ENROLLMENT OF SCHOOL CHILDREN IN GUAM'S PUBLIC SCHOOLS FOR SCHOOL YEAR 1998-1999, IN CONSIDERATION OF THE ADJUSTED SCHEDULE FOR THE COMMENCEMENT OF CLASSES DUE TO THE UPCOMING 1999 SOUTH PACIFIC GAMES. (F. B. AGUON, JR.)

The public is invited to attend. Individuals requiring special accommodations, auxiliary aids or services are asked to contact the office of Senator Kasperbauer by tel. at 475-5437 or e-mail at lk4kids@lte.net. Please visit our official website at www.lk4kids.com.