

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

CHAPTER 3
DEPARTMENT OF EDUCATION

SOURCE: Chapter 3 was repealed and reenacted by P.L. 24-142:4; amended in part by P.L. 24-299 and repealed and reenacted by P.L. 26-26:3.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

Article 1. Administration of the Department of Education.

Article 2. General Education Matters.

ARTICLE 1
ADMINISTRATION OF THE DEPARTMENT OF EDUCATION

- § 3101. The Department of Education.
- § 3102. Administration of the Department of Education and Education Policy.
- § 3103. Superintendent and Deputy Superintendent of Education.
- § 3104. Minimum Qualifications for Superintendent of Education.
- § 3105. Collection of Data and Production of School Performance Reports by Superintendent; Criteria for Grading Schools.
- § 3106. School Performance Report Card.
- § 3107. Establishment of Educational Goals and Performance Standards.
- § 3108. Attorney for the Board.
- § 3109. Attorney for the Department of Education.
- § 3110. Special Assistant Attorney General.
- § 3111. Guam Education Policy Board.
- § 3111.1 Provision for Staggered Elections.
- § 3112. Same: Duties and Responsibilities.
- § 3112.1. Same: Policy Against Bullying.
- § 3113. Same: Elected Members.
- § 3114. Nomination for Election to the Board.
- § 3115. Same: First Election: Terms.
- § 3116. Same: Repeal of Temporary Governance by *I Maga'lahren Guåhan*.

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

- § 3117. Same: Vacancies.
- § 3118. Same: Severability as to Districting Formula.
- § 3119. Same: Officers of the Board.
- § 3120. Same: Stipend.
- § 3121. Budget.
- § 3122. Collective Bargaining Agreement.
- § 3123. Superintendent and Deputy Superintendent not part of *I Maga'lahaen Guåhan's* Governor's]Cabinet.
- § 3124. Removal of Elected Board Members.
- § 3125. Chief Financial Officer.
- § 3126. Adequate Public Educational System Objectives.
- § 3127. Definitions.
- § 3128. Eligibility for CATS Employee Status.
- § 3129. Employment of CATS Employees.
- § 3130. Superintendent to Maintain Roster.
- § 3131. Employment of Certified Applicants.
- § 3132. Central Office Budgeting.

§ 3101. Department of Education.

There is in the government of Guam a Department of Education (DOE).

SOURCE: Repealed and reenacted by P.L. 22-042:1 (Nov. 19, 1999), P.L. 24-142:4 (Feb. 27, 1998), P.L. 26-026:3 (July 5, 2001), amended by P.L. 30-050:2 (July 14, 2009).

NOTE: See 5 GCA § 3107, which provides that the Department of Education is within the executive branch.

§ 3102. Administration of the Department of Education and Education Policy.

The Department of Education shall be administered by the Superintendent of Education. The Guam Education Policy Board (*Board*) shall develop and adopt system-wide education policies as specified by § 3112 of this Chapter. The Superintendent of Education shall be responsible for implementing the policies of the Board.

§ 3103. Superintendent and Deputy Superintendent of Education.

The Superintendent of Education (Superintendent) shall be the Chief Executive Officer of the Department of Education (DOE). The Superintendent shall be appointed by the Board. Notwithstanding any other

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

provision of law, the employment of the Superintendent shall be by contract for a term of three (3) years, which contract shall contain a provision that the Superintendent's employment may only be terminated for *cause*, as defined herein.

(a) Termination of the Superintendent shall require an affirmative vote of six (6) Board members. Upon passage of a resolution for termination, the Chairperson of the Board shall notify the Superintendent of the Board's action in writing and shall expressly state the grounds for termination in said notification. When the Board serves said notice, the Superintendent shall be on administrative leave until he is either reinstated or terminated and DOE shall be administered by an acting Superintendent appointed by the Board Chairperson. The Superintendent will then be permitted to meet with the Board, in executive session, within three (3) working days after service of the notification, to informally discuss the termination. If the Board decides to proceed with termination, the Superintendent shall have the right to a full and public hearing on the matter within seven (7) days after the Board's decision, during which hearing full disclosure of the cause for termination shall be made, and during which, at the request of the Superintendent, full testimony shall be received from the public. In any case, the Superintendent shall have the right to make a full and complete presentation of his personal testimony at such hearing.

(b) Only the following constitute cause for the discharge of the Superintendent or Deputy Superintendent:

(1) holding financial interests that conflict with the conscientious performance of his or her duties;

(2) engaging in financial transactions using confidential or non-public DOE information or allowing the improper use of such information to further any private interests;

(3) *except* as permitted by statute or regulation, the solicitation *or* acceptance of any item of value from any person *or* entity seeking official action from, doing business with, *or* conducting activities regulated by DOE, *or* from persons whose interest may be substantially affected by the performance or nonperformance of the Superintendent's duties, *or* the duties of DOE;

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(4) knowingly making commitments *or* promises of any kind purporting to bind DOE *except* as permitted by law;

(5) use of his *or* her official position for private gain *or* that of others;

(6) failure to disclose waste, abuse and corruption to the appropriate authorities;

(7) failure to respect the rights and privacy of others and the use of his *or* her official position, authority *or* other means to injure another person for personal reasons *or* malicious purposes;

(8) fraud *or* misrepresentation in securing his *or* her appointment;

(9) refusal *or* failure to perform duties and responsibilities as defined by law;

(10) unlawful use, possession *or* sale of illicit drugs and alcohol;

(11) criminal acts involving moral turpitude;

(12) political activity prohibited by law;

(13) misuse, misappropriation *or* theft of government property *or* funds;

(14) prohibited acts of discrimination, including sexual harassment; *or*

(15) abandonment of his *or* her position.

(c) In the case of temporary absence of the Superintendent, the Superintendent may, after consultation with the Chairperson of the Board, appoint among any of the Associate Superintendents, or their equivalents, an acting Superintendent. The Superintendent shall:

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

(2) enforce and implement the education policies of the Board and rules and regulations of the DOE;

(3) administer Federal funds/programs on behalf of the DOE;

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(4) serve as the DOE' approving authority for the expenditure of funds;

(5) serve as the appointing authority for all personnel employed by the DOE;

(6) be the Executive Secretary of the Board in an ex-officio, nonvoting capacity;

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

(8) develop and present to the people of Guam, the Board, *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* a "School Performance Report Card" of each school, which shall be given in conjunction with the Annual Report;

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

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

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

(12) report to *I Liheslaturan Guåhan* any potential or alleged violation of § 3112(b);

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

(14) Notwithstanding any other provision of law or personnel rules and regulations, the Superintendent shall have the authority to assign, detail or transfer employees to various

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

physical locations within the Department of Education. The Superintendent shall exercise such authority only in accordance with a policy adopted by the Board and shall *not* (1) cause a change in position title or job duties, or (2) contradict the provisions of any collective bargaining agreement in effect at the time of the transfer nor violate any employee's rights thereunder;

(15) Adequate Public Education Reporting Requirements. The Superintendent of Education *shall* submit a monthly report of all funds available to the Department of Education, whether *or* not their resources require appropriations by *I Liheslaturan Guåhan*. The report *shall* also contain a detailed accounting of all expenditures of funds relating such expenditures to the criteria established in Title 1 GCA § 715 and the status of compliance with the Adequate Education Act. The report is to be completed *no later than* fifteen (15) calendar days after the end of each month and *shall* be certified by the Superintendent acknowledging compliance with Title 1 GCA § 715 and in meeting the objectives of § 3125 of this Chapter. The report *shall* be submitted to the Guam Education Policy Board, the Speaker of *I Liheslaturan Guåhan* and *I Maga'lahen Guåhan*.

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

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

(B) To evaluate the effectiveness of DOE administrators in implementing board policy and in fulfilling assigned objectives;

(C) To evaluate the effectiveness of DOE instructional personnel and their ability to meet curriculum goals; and

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

Said audits *shall* also identify and assess deficiencies in DOE organizational structure; compliance with federal and local laws and with board policies; physical and operational security;

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

workflow designs and management; internal controls; staffing levels and competencies; management levels and competencies; management practices; training standards and practices; adequacy of facilities; physical plant management; technical and administrative infrastructure; redundancy of systems and procedures; productivity and quality standards; recruitment, certification training of teachers, and recruitment, training and staff development. Said audits *shall* be conducted at intervals determined by the Guam Education Policy Board of *not less than* three (3) years and *no more than* five (5) years.

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

(17) promulgate rules and regulations for the implementation and operation of §§ 3127 through 3131 of this Title as necessary.

SOURCE: Added by P.L. 24-142:4; amended by P.L. 26-26:3, P.L. 27-32:4 (10/31/03); P.L. 27-106:VI:24; P.L. 27-107:21; P.L. 27-106:VI:43; P.L. 28-26:1; P.L. 28-045:20; P.L. 28-045:7 (6/6/05); P.L. 28-143:1 (July 20, 2006). Public Law 28-149:II:VI:10 (Sept. 30, 2006) added a subsection (q), renumbered by Compiler to subsection (c)(16). Public Law 28-183:4 (Jan. 29, 2007) added a subsection (q), which was renumbered by Compiler to subsection (c)(17). Subsection (o), which was redesignated by the Compiler as subsection (c)(15), was amended by P.L. 29-019:VI:83 (Sept. 29, 2007). Subsection (q), which was redesignated as subsection (c)(17), was amended by P.L. 29-019:VI:84 (Sept. 29, 2007). Subsection (b) amended by P.L. 29-038:1 (Oct. 25, 2007).

COMMENT: Amendments by P.L. 28-143:1 (July 20, 2006) included duplicate letter sequencing of subsections. Therefore, the Compiler assigned sequential subsection designations to clarify and harmonize the section.

§ 3104. Qualifications for the Superintendent of Education and Deputy Superintendent of Education.

(a) The Guam Education Policy Board (Board) *shall* adopt the qualifications and compensation for the Superintendent of Education and Deputy Superintendent of Education, *or* any amendments thereto, provided that such qualifications must not be in conflict with the minimum qualifications established in this Section. The Superintendent of Education

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

shall, at a minimum, possess the following qualifications:

(1) A Master's Degree in Education, Business, Public Administration, *or* other related field from a college *or* university accredited by a United States accrediting body recognized by the Council on Higher Education Accreditation (CHEA) *or* its successor, *or* an equivalent foreign university. A foreign degree is equivalent to a degree granted by a college *or* university accredited by a CHEA recognized accrediting body when any of the following applies: (a) such degree qualifies the degree-holder for enrollment in a graduate *or* post-graduate program in a college *or* university accredited by a CHEA recognized accrediting body; (b) such degree qualifies the degree-holder for employment in a faculty *or* academic administrative position in a college *or* university accredited by a CHEA recognized accrediting body; *or* (c) the degree was conferred by a foreign institution recognized by the United States Department of Education at the time such degree was conferred;

(2) Five (5) years experience in the field of educational leadership, public administration management, *or* other related field; and

(3) Good moral character and never convicted of a felony *or* any crime involving moral turpitude.

(b) The Board may add additional qualifications provided that such qualifications are consistent with the Minimum Knowledge, Abilities and Skills (KAS) required for such job and do not violate the Equal Employment Opportunity Act (42 U.S.C.). Any additional qualifications must be included in the published job description.

(c) *If* the Board hires a Deputy Superintendent, it *shall* use the same voting and public hearing procedures for adoption of the positions qualifications and compensation as it uses for the position of Superintendent. The minimum qualifications of the Deputy Superintendent *shall* be identical to those for the Superintendent.

(d) In determining the salary of the Superintendent and Deputy Superintendent, the Board may consider: (1) salaries for similar positions in other United States school districts that have a similar number of students; (2) the complexity, in terms of problem solving, accountability and expertise of the job compared to positions of a similar level in other

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

government agencies; and (3) the complexity, in terms of the problem solving, accountability and expertise of the job compared to positions of a similar level in other education agencies within the government of Guam.

SOURCE: Repealed/reenacted by P.L. 27-08:1 (April 2, 2003). Amended by P.L. 29-019:VI:66 (Sept. 29, 2007).

§ 3105. Collection of Data and Production of School Performance Reports by Superintendent; Criteria for Grading Schools.

(a) The Superintendent shall collect data and produce annual school performance reports containing information on student performance, student behavior and school characteristics.

(b) (1) In consultation with representatives of parents, teachers and school administrators, the Board shall adopt, by rule, criteria for grading schools. Such criteria shall take into account both overall performance and improvement in performance. A five (5) member evaluation team shall be appointed by the Board to assess every school. The Board shall appoint one (1) member from each of the four (4) school board election districts, and the fifth member shall be appointed from the Island-wide Parent Teacher Organization. The grades shall include classifications for exceptional performance, strong performance, satisfactory performance, low performance and unacceptable performance.

(2) The grades received by a school shall be included in the Annual State of Public Education Report.

(3) If a school is within the low performance or unacceptable performance classification in any category, the school shall file a school improvement plan with the Superintendent and with the Board.

(c) The Superintendent shall notify the public and the media, and post on the Department of Education's website, no later than thirty (30) days following the end of the fiscal year. The school performance reports shall be available at schools and the DOE' offices. The Superintendent shall also include notice that copies of school improvement plans can be obtained from the schools and the DOE.

§ 3106. School Performance Report Card.

(a) No later than thirty (30) days following at the end of each fiscal year, the Superintendent shall issue a School Performance Report Card on

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

the state of the public schools and progress toward achieving their goals and mission.

(b) The purpose of the School Performance Report Card is to monitor trends among schools and progress toward achieving the goals stated in the mission statement. The report on the state of the public schools shall be designed to:

(1) allow educators and the community to determine and share successful and unsuccessful school programs;

(2) allow educators to sustain support for reforms demonstrated to be successful;

(3) recognize schools for their progress and achievements; and

(4) facilitate the use of educational resources and innovations in the most effective manner.

(5) The report shall contain, but need not be limited to:

demographic information on public school children in the community;

(6) information pertaining to student achievement, including Guam-wide assessment data, graduation rates and dropout rates, including progress toward achieving the education benchmarks established by the Board;

(7) information pertaining to special program offerings;

(8) information pertaining to the characteristics of the school and school staff, including certification and assignment of teachers and the experience of the staff;

(9) budget information, including source and disposition of school operating funds and salary data;

(10) examples of exemplary programs, proven practices, programs designed to reduce costs or other innovations in education being developed by the schools that show improved student learning; and

(11) such other information as the Superintendent and the Board deems necessary.

In the second and subsequent years that the report is issued, the report shall include a comparison between the current and previous data, and an

analysis of trends in public education.

§ 3107. Establishment of Educational Goals and Performance Standards.

The Board shall develop and periodically assess educational goals and performance standards.

§ 3108. Attorney for the Board.

The Board is authorized and may employ an attorney to assist and represent it during any meetings and in all civil matters. The Board *shall* set the terms and conditions for employment of the attorney or law firm. The Board *shall* determine whether the appointment is a part-time, unclassified employee or an independent consultant. The Board is authorized to expend funds for hiring an attorney or procuring legal services.

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:1 (Oct. 26, 2007).

§ 3109. Attorney for the Department of Education.

The Superintendent may employ an attorney(s) to assist and represent it in all matters that concern the DOE.

§ 3110. Special Assistant Attorney General.

The Attorney General shall assist the Board or the DOE in all litigation in which the Board or the DOE is interested; provided, that the Attorney General shall designate the attorney for the Board or the DOE as a Special Assistant Attorney General for such purpose at no cost to the Board or to the DOE.

§ 3111. Guam Education Policy Board.

There is hereby created a Guam Education Policy Board (Board). The Board *shall* consist of at least eleven (11) members as follows:

(a) Nine (9) District Elected Voting Members. Beginning with the 2008 General Election, nine (9) members of the Board *shall* be elected through district-wide elections in a General Election and in the manner described in § 3111.1. Notwithstanding any other provision of law, *except* for the student member and non-voting members, unclassified and contracted employees of the Executive and Legislative Branches and all employees of the Department of Education are *not* eligible to

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

run. The candidates must be at least twenty-five (25) years old, and at least two (2) year resident of Guam, and a resident and domiciliary in that District the candidate will be representing for at least two (2) years immediately preceding the date on which the member takes office and continuing throughout the term. All candidates for the Board must be citizens of the United States of America.

(b) One (1) Student Non-Voting Member. One (1) student member of the Board *shall* be elected by the Island-wide Board of Governing Students.

(c) Appointed Non-Voting Member. The Board *shall* appoint one (1) non-voting member from a list of *not less than* three (3) nominees by the exclusive bargaining unit which represents teachers and other employees in the DOE. The non-voting member *shall* serve a term of one (1) year.

(d) Additional Non-voting members. The Board may add nonvoting, ex-officio members as needed. The terms for such ex-officio members *shall* be determined by the Board.

(e) Votes needed for Action. Unless expressly provided for elsewhere by public law, actions of the Board are carried by a vote of five (5) voting members.

(f) Quorum. A quorum for meetings of the Board *shall* consist of five (5) voting members.

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:2 (Oct. 26, 2007).

§ 3111.1 Provision for Staggered Elections.

(a) *Except* as provided in Subsection (b) of this § 3111.1, each member of the Board *shall* be elected to serve a term of four (4) years, commencing at 12:00 noon on the first Monday in January following their election.

(b) At the election for members of the Board held at the General Election in November 2008, and only at this election, four (4) candidates, one (1) from each of the four (4) districts, *shall* each serve four (4) year terms, and five (5) candidates *shall* each serve two (2) year terms as follows:

(1) Upon the Guam Election Commission's determination of the

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

nine (9) successful candidates, the successful candidate in each district who received the highest number of votes *shall* be certified to serve a four (4) year term. The remaining successful candidates in each district *shall* be certified to serve two (2) year terms.

(c) Effective beginning with the November 2008 election, *no* write-in candidates for the Guam Education Policy Board *shall* qualify to be elected to sit on the Policy Board *unless* he/she receives votes *equal* to at least ten percent (10%) of the total number of the valid ballots cast for that office in the district in which he/she is a candidate.

SOURCE: Added by P.L. 29-041:6 (Oct. 26, 2007). Amended by P.L. 29-113:VI:66 (Sept. 30, 2008).

§ 3112. Same: Duties and Responsibilities.

(a) The duties and responsibilities of the Guam Education Policy Board shall include, unless prohibited by subsection (b) hereof, the following:

- (1) establish curriculum goals and policy;
- (2) establish student performance standards and a mechanism for standardized assessment of each student based upon the adopted standards;
- (3) establish policy for interscholastic sports;
- (4) establish and approve a textbook list;
- (5) establish student discipline policy;
- (6) establish a school calendar;
- (7) establish graduation standards;
- (8) periodically review established policies for refinement and improvement;
- (9) serve as Guam's State Education Policy/Governing Board for Federal programs where such a board is required by Federal Law to include, but not be limited to, the Head Start Program; the Guam Education Policy Board shall have *no* involvement with federal programs that do not require a governing board except that all federal grant applications must be presented to the board at least fifteen (15) days prior to final transmittal to the federal government. In the event of an emergency, the Board may reduce or waive said fifteen (15) day presentation requirement;

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(10) make recommendations to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* for changes, additions or deletions to public law;

(11) approve or revoke a school's decentralization status for purposes of school-based management;

(12) act as the approving authority on behalf of the DOE for collective bargaining agreements;

(13) establish rates and fees necessary for programs, including, but not limited to, the school lunch program;

(14) perform other duties and responsibilities as required by public law to provide an adequate public educational system;

(15) The University of Guam shall adopt and implement a professional training development program for the members of the Board. The Department of Education (DOE) shall pay the cost of the professional training and development program from the appropriations made to the Department of Education Operations Fund. This professional training and development program shall be mandatory for Board members to complete within thirty (30) days of taking office for the purpose of improving, expanding and refining their individual and collective policy making skills. Some specific areas that will be covered by such professional training and development program shall include but *not* be limited to:

(A) Board Operations;

(B) Board Skills and Service;

(C) Review of the Guam Code Annotated and other laws pertaining to DOE;

(D) Roberts Rules of Order;

(E) Department of Education/government of Guam budgeting procedures and guidelines; and

(F) Difference(s) between policy making and micro-management of the affairs of DOE;

(16) Privatization of DOE services or operations must be authorized by the Board and executed by:

(A) directing the Superintendent of Education to issue a

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

Request for Proposal (RFP) or an Invitation for Bid (IFB) for the privatization of services within the Department of Education and implementing the privatization of services within the budgeted allocation level approved by the Board;

(B) the issuance of an RFP or an IFS and the award thereof shall be in conformance with all applicable procurement laws and regulations of Guam;

(C) the disposition of any employee of the DOE, affected or displaced by such action, shall follow all applicable laws and regulations of Guam; and

(D) For all Department of Education privatized food services, cafeterias, or cafeteria services, contractors operating DOE cafeterias and food services shall comply with 5 GCA § 5001(e) and Chapter 68 of Title 5, Guam Code Annotated, relative to the procurement of local products, in place and stead of the Department of Education. The Department of Education shall require compliance with these provisions as part of its contracts for privatization subsequent to the enactment of this Subsection;

(17) Review and approve by Board resolution the spending priorities as outlined in the fiscal year budget for the DOE.

(b) The Board shall *not* collectively or individually:

(1) exert influence in the hiring, transfer, discipline or termination of any employee of the DOE, unless expressly authorized by public law;

(2) interfere in or micro-manage the affairs of the DOE or schools within the DOE;

(3) involve itself with student discipline cases, unless expressly authorized by public law, and only to the extent authorized by public law;

(4) involve itself in *operational* matters related to the *administration* of federal funds and federal grants.

Any Board member shall report to *I Liheslaturan Guåhan* any potential or alleged violation of this subsection (b).

SOURCE: Subsection (a)(16) added by P.L. 27-32:5. (10/31/03). Subsection

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(a)(16)(d) added by P.L. 27-106:VI:41. Subsection (a)(17) added by P.L. 28-010:3 as (a)(16) and renumbered by Compiler. Subsection (a)(14) amended by P.L. 28-045:21. Amended by P.L. 28-143:2 (July 20, 2006). Subsection (a)(15) amended by P.L. 28-150:V:64 (Sept. 30, 2006).

§ 3112.1. Same: Policy Against Bullying.

(a) As used in this Section:

(1) ‘at school’ means in a classroom, elsewhere on or immediately adjacent to school premises, on a school bus or other school-related vehicle, at an official school bus stop, or at a school-sponsored activity or event whether or not it is held on school premises.

(2) ‘harassment, intimidation, or bullying’ means any gesture or written, verbal, or physical act that a reasonable person under the circumstances should know will have the effect of harming a pupil or damaging his or her property or placing a pupil in reasonable fear of harm to his or her person or damage to his or her property, or that has the effect of insulting or demeaning any pupil or group of pupils in such a way as to disrupt or interfere with the school’s educational mission or the education of any pupil. Harassment, intimidation, or bullying includes, but is not limited to, such a gesture or written, verbal, or physical act that is reasonably perceived as being motivated by a pupil’s religion, race, color, national origin, age, sex, sexual orientation, disability, height, weight, or socioeconomic status, or by any other distinguishing characteristic.

(b) The Guam Education Policy Board (the ‘Board’) shall adopt a policy prohibiting harassment, intimidation, or bullying at school. The content of the policy shall be determined by the Board but shall contain at least the components in Subsection (3). The policy shall be adopted through a process that includes representation of parents or guardians, pupils, teachers, staff, administrators, volunteers, and community representatives.

(c) The policy shall include at least each of the following components:

(1) A statement prohibiting harassment, intimidation, or bullying of a pupil.

(2) A definition of harassment, intimidation, or bullying that includes at least the acts described in the definition in this Section.

(3) A description of the type of behavior expected from each pupil.

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(4) Consequences and appropriate remedial action for a person who commits an act of harassment, intimidation, or bullying.

(5) A procedure for reporting an act of harassment, intimidation, or bullying, including a provision that permits a person to report an act of harassment, intimidation, or bullying anonymously. However, this Subsection shall *not* be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) The range of ways in which a school will respond once an incident of harassment, intimidation, or bullying is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation, or bullying, and the consequences and appropriate remedial action for a person who engages in that type of reprisal or retaliation.

(9) Consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation, or bullying.

(10) A statement of how the policy is to be publicized including notice that the policy applies to participation in school-sponsored activities.

(11) A school employee, pupil, or volunteer shall not engage in reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying.

(12) A school employee or volunteer who has witnessed, or has reliable information that a pupil has been subjected to harassment, intimidation, or bullying, whether verbal or physical, *shall* report the incident to the appropriate school official designated by the Board policy.

(13) A school employee who promptly reports an incident of harassment, intimidation, or bullying to the appropriate school official designated by the Board policy, and who makes this report in compliance with the procedures in the policy prohibiting harassment,

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

intimidation, or bullying is not liable for damages arising from any failure to remedy the reported incident.

(d) The Board shall adopt the policy under this Section and transmit a copy of its policy to the Superintendent of Education by February 28, 2004.

(e) The Board shall ensure that notice of the policy under this Section is included in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for all schools, and in its pupil handbooks.

(f) Public schools are required to form bullying prevention task forces; implement prevention, intervention, and remediation programs; and explore other initiatives that involve the school community, law enforcement, assistance organizations, and community members. School community is defined as parents or guardians, pupils, teachers, staff, and administrators.

(g) Each school shall do all of the following:

(1) Provide training on the school's harassment, intimidation, or bullying policies to the school community and volunteers who have significant contact with pupils.

(2) Develop a process for discussing the harassment, intimidation, or bullying policy with pupils as part of the curriculum.

(h) A school shall incorporate information regarding its policy against harassment, intimidation, or bullying into its employee training program.

(i) This Section does not prevent a victim from seeking redress under any other available law, either civil or criminal. This Section does not create or alter any tort liability.

(j) The Board shall establish rules for appropriate disciplinary action for the Department of Education personnel who do not comply with the policy prohibiting harassment, intimidation, or bullying.

SOURCE: Added by P.L. 27-071:2 (Feb. 4, 2004).

§ 3113. Same: Elected Members.

(a) Nine (9) elected members of the Board shall be elected by District (Title 3, Guam Code Annotated); provided, that candidates for such election shall be nominated only as provided in § 3114 of this Chapter.

(b) The election provided for in this Section shall be non-partisan, and

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

no political party shall directly or indirectly sponsor, nominate or endorse any of the candidates for such office.

(c) There shall be the following number of elected Board members for the following districts composed of the municipalities as set out in the following table:

Number of Board Districts: Municipalities	Members
Distritun 'LAGU': Dededo and Yigo	Three
Distritun 'KATTAN': Barrigada, Chalan Pago-Ordot, Mangilao, and Mongmong-Toto-Maite	Two
Distritun 'LUCHAN': Agaña Heights, Asan-Maina, Hagatña, Piti, Sinajaña and Tamuning	Two
Distritun 'HAYA': Agat, Inarajan, Merizo, Santa Rita, Talofoto, Umatac and Yoña	Two

(d) **Apportionment.** The apportionment of members shall be reviewed by the Board within one hundred eighty (180) days from the date of receipt of the decennial census. The Board shall report its findings, related to the rate of change in the population of each district, to the Speaker of I Liheslaturan Guåhan. In the event I Liheslaturan Guåhan [Legislature] determines that districts are not proportionately represented because of significant increases or decreases in population has occurred, I Liheslaturan Guåhan [Legislature] shall take appropriate action to maintain proportional representation of the districts.

§ 3114. Nomination for Election to the Board.

Nomination of candidates for election to the Board shall be made by petition on forms prescribed by the Guam Election Commission ("*Commission*") and initiated by the candidate. In order for a person's name to be placed upon the ballot for election to the Board, such petition must be signed by not less than one hundred fifty (150) persons registered to vote in and residing in the district the candidate is seeking to represent, and must be filed with the Commission not later than the first Monday after a Primary Election, unless such date is a holiday, in which it shall be filed the day following the holiday, or sixty (60) days prior to a Special Election. No defect in any nominating petition presented to the Commission shall prevent the filing of another petition which is presented within the allowed filing

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

period. Such petitions shall be maintained on file with the Commission for not less than ten (10) years.

SOURCE: Repealed/reenacted by P.L. 26-129:1 in time for the 2002 election.

§ 3115. Same: Term of Office of Elected Members.

The members of the Board *shall* be elected by district at the next General Election or Special Election. The terms of office of Board members elected pursuant to this Section *shall* commence at 12:00 noon on the first Monday in January immediately following the date they were elected and terminate at 11:59 a.m. on the first Monday in January four (4) years hence, except as provided in § 3111.1 of this Chapter.”

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. P.L. 28-150:V:37 (Sept. 30, 2006) and P.L. 29-041:3 (Oct. 26, 2001).

§ 3116. Same: Repeal of Temporary Governance by I Maga’lahen Guåhan.

Upon the certification of the election of the Board members as contained in § 3115 of this Chapter, § 18 of Chapter IV of Public Law Number 25-03 is hereby repealed.

§ 3117. Same: Vacancies.

(a) Any vacancies, including initial vacancies, of elected member positions occurring on the Board *shall* be filled forthwith by appointment of the unsuccessful candidate from the same district in which the vacancy occurs who received the next highest number of votes in the board election, *provided* that the individual received greater than fifty percent (50%) of the number of votes received by the declared winner of that seat. In the event that the individual declines or there is no candidate meeting the criteria in this § 3117 (a), *I Maga’lahen Guåhan* (the Governor of Guam) *shall* appoint a member for the term or remaining term of office, subject to confirmation by *ILiheslaturan Guåhan* (the Guam Legislature). Vacancies, including initial vacancies, *shall* be filled by a person from the same district(s) in which the vacancies occur.

(b) Persons may be appointed and confirmed to fill anticipated initial vacancies at any time between the last day for nomination of candidates specified by Title 17 GCA § 3114 and the general election and shall assume office upon appointment but not before the members elected pursuant to Title 17 GCA § 3113 assume office.

SOURCE: Amended by P.L. 28-068:II:I:25 (Sept. 30, 2005), P.L. 28-150:V:36 and 38

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(Sept. 30, 2006). Subsection (a) amended by P.L. 29-041:4 (Oct. 26, 2007).

§ 3118. Same: Severability as to Districting Formula.

Should a court of competent jurisdiction declare that the districting formula set out in § 3113 of this Title is unconstitutional, or in conflict with the Organic Act of Guam, the elected members of the Board shall remain in their positions until the next special or general election at which time the Board shall be elected at large.

§ 3119. Same: Officers of the Board.

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

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:5 (Oct. 26, 2007).

§ 3120. Same: Stipend.

Members of the Board shall be paid the amount of Seventy-five Dollars (\$75.00) for each day on which they attend a regular, special or executive meeting, not to exceed One Hundred Fifty Dollars (\$150.00) in any month.

§ 3121. Budget.

The Superintendent of Education *shall* prepare the DOE fiscal year budget, giving the highest priority to budgetary items that directly affect teaching and learning. The Board *shall* approve the proposed budget and its funding priorities by resolution. The budget request for the non-personnel categories of each and every decentralized school *shall* be submitted as a separate line-item. After Board approval, the Superintendent *shall* submit the proposed DOE fiscal year budget to *I Liheslaturan Guåhan*, and a courtesy copy to *I Maga'lahaen Guåhan*, no later than the thirtieth (30th) day of January. The budget *shall* be in the format of the Budget Call issued by the Bureau of Budget and Management Research and *shall* describe DOE's budget requests to federal agencies for federal grant awards by object classification and by grant, including each grant's staffing pattern, both

current and proposed, and such information as may be requested by *I Liheslaturan Guåhan*.

SOURCE: Amended by 28-010:4; P.L. 28-068:II:1:23 (Sept. 30, 2005); and P.L.29-019:VI:78 (Sep. 29, 2007).

§ 3122. Collective Bargaining Agreement.

The Board shall appoint a negotiating team to handle negotiations between the DOE and any exclusive bargaining unit representing teachers and other support staff for collective bargaining agreements. The Board shall have the authority to render final approval on behalf of the DOE for such agreements.

§ 3123. Superintendent and Deputy Superintendent Not Part of I Maga'lahen Guåhan's [Governor's] Cabinet.

The Superintendent shall not be considered a member of I Maga'lahen Guåhan's [Governor's] Cabinet. In the event that a Deputy Superintendent is hired, such Deputy Superintendent shall not be considered a member of I Maga'lahen Guåhan's [Governor's] Cabinet.

§ 3124. Removal of Elected Board Members.

An elected Board member shall be removed from the Education Policy Board by the following means:

- (a) automatically upon conviction of a felony;
- (b) automatically upon conviction of a misdemeanor involving the possession of a Controlled Substance or operation of a vehicle while under the influence of alcohol or a controlled substance; or
- (c) by a referendum election in which at least two-thirds ($\frac{2}{3}$) of the number of persons voting for the individual Board member under recall in the last preceding general election at which such Board member was elected vote in favor of a recall, and in which those so voting constitute a majority of all those participating in the referendum election for that Board member's district.

The referendum election shall be initiated by I Liheslaturan Guåhan [Legislature] following:

- (a) a two-thirds ($\frac{2}{3}$ s) vote of the members of I Liheslaturan Guåhan in favor of a referendum, or
- (b) a petition for such a referendum to I Liheslaturan Guåhan by

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

registered voters equal in number to at least fifty percent (50%) of the whole number of votes cast for the Board at the last general election for that Board member's district at which such official was elected preceding the filing of the petition. A violation by a Board member of 17 GCA § 3112(b) may be grounds for a referendum election.

§ 3125. Chief Financial Officer.

(a) Unclassified Deputy Superintendent(s) Appointment. The Superintendent shall reserve the right to select unclassified Deputy Superintendent(s) as his management team with full management responsibility and authority as delegated unto him or her by the Superintendent. Such unclassified Deputy Superintendent(s) appointees may number from one (1) but *shall not* exceed four (4), unless otherwise approved by the Guam Education Policy Board. The unclassified Deputy Superintendent(s) appointed positions shall cover, *but not be limited to*:

- (1) Deputy Superintendent, Finance and Administrative Services
- (2) Deputy Superintendent, Assessment and Accountability
- (3) Deputy Superintendent, Curriculum and Instructional Improvement
- (4) Deputy Superintendent, Educational Support and Community Learning

(b) Unclassified Status. Notwithstanding any other provision of law, members of the management team may be selected through direct appointment or through contractual arrangement and may be terminated at will and without cause. Sole authority for selection and termination of management team personnel rests with the Superintendent of Education.

(c) Compensation. Notwithstanding any other provision of law, personnel from the Department of Education who are selected as a management team member shall receive compensation at no more than the maximum salary established for the Superintendent of DOE.

(d) Qualifications. The Superintendent shall establish qualifications demonstrating quantifiable criteria to define the skills required for each of the positions, which qualifications shall be subject to approval by the Board.

(e) Elimination of Positions at Department of Education.

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(1) Elimination of Deputy Superintendent Position. The position of Deputy Superintendent of Education in the Department of Education is hereby eliminated.

(2) Elimination of Chief Financial Officer Position. The position of Chief Financial Officer in the Department of Education is hereby eliminated.

(3) Elimination of Associate Superintendent Positions. The position of Associate Superintendent in the Department of Education is hereby eliminated.

(f) Evaluation of Management Team. The Superintendent of Education shall conduct a semi-annual evaluation of his management team and shall post the results of the evaluation on the DOE' website.

(g) Effective Date. This provision of law *shall* take effect on September 1, 2008.

SOURCE: Added by P.L. 27-117:2. Amended by P.L. 28-068:II:I:24 (Sept. 30, 2005). Repealed and reenacted by P.L. 29-102:4 (July 22, 2008).

§ 3126. Adequate Public Educational System Objectives.

(a) The basic objectives of an adequate public educational system are:

(1) That parents or guardians are full partners with educators in the education of their children.

(2) That students are encouraged and challenged to reach their educational potential.

(3) That students are motivated and encouraged to remain in school until they've earned their high school diplomas.

(4) That the curriculum adequately prepares students to succeed in their future endeavors.

(5) That students are prepared to be active participants in the community through an understanding of our island and national heritage, cultural and family values, and an appreciation for the freedoms afforded all citizens of our democratic form of government.

(6) That qualified education professionals are hired and retained in our schools.

(7) That students perform at or above national and international academic standards.

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

(8) That school campuses are safe and conducive to student learning.

(9) That educators' teaching methods and knowledge of subject matter are continually improved and re-enforced.

(10) That technology will be implemented and used to increase the effectiveness of student learning, instructional management, staff development, and administration.

(11) that curricula be consistent with the 'No Child Left Behind Act' or successor legislation that would allow students to achieve Literacy goals established by the Guam Education Policy Board.

(b) It is the duty and responsibility of the government of Guam to provide the resources to the Department of Education that are necessary to meet the basic objectives of an adequate public education as declared herein.

SOURCE: Added by P.L. 28-19:2 as a new section 3125. However, section 3125 was already occupied. The new section was renumbered to section 3126. Subsection (a)(11) added by P.L. 29-058:1 (Apr. 4, 2008)

§ 3127. Definitions.

As used in Title 4 GCA Chapter 8, § 8121 (a) and §§ 3127 through 3131 of this Title:

(a) *Certified Employee* means an employee who holds a position defined in 1 GCA § 715 Item 12, (a) through (e) and (k), who is "certified" as that term is defined in 1 GCA § 715 Item 13.

(b) *Certified Augmentation Teaching Service (CATS) employee (CAT or CATS)* means a member of the Government of Guam Employees' Retirement Fund who has retired from government service but has subsequently been temporarily employed as an unclassified employee to fill a vacancy in a position defined in 1 GCA § 715 Item 12, (a) through (e) and (k), who is "certified" as that term is defined in 1 GCA § 715 Item 13, for the remainder of a school year or until replaced pursuant to 17 GCA § 3131.

(c) *Certified Applicant* means an applicant for a position defined in 1 GCA § 715 Item 12, (a) through (e) and (k), who is "certified" as that term is defined in 1 GCA § 715 Item 13.

(d) *Certificate of Necessity* means a writing signed by the Superintendent confirming that the employment of a Certified

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

Temporary Employee is necessary to fill a vacant position defined in 1 GCA § 715 Item 12, (a) through (e) and (k), in order to comply with the Every Child is Entitled to an Adequate Public Education Act.

(e) *Every Child is Entitled to an Adequate Public Education Act* means the provisions of Public Law 28-45.

(f) *School year* means one hundred eighty (180) instructional days as that term is defined in 1 GCA § 715, Item 12 (m).

SOURCE: Added by P.L. 28-183:5 (Jan. 29, 2007).

NOTE: Sections 3127 - 3131 of this Chapter were added by P.L. 28-183, "The Certified Augmentation Teacher Service (CATS) Act or the CATS Act." Section 10 of P.L. 28-183 finds that it is impracticable to employ CATS as classified employees, and Section 11 provides that No CAT may be employed after July 1, 2010.

§ 3128. Eligibility for CATS Employee Status.

A former Department of Education employee who resigned *or* retired from a position defined in 1 G.C.A. §715 Item 12, (a) through (e) and (k) in good standing:

(a) who gave thirty (30) days' notice before leaving his employment, may be employed as a CATS employee, *if* he holds a current certification for the position; or

(b) prior to the effective date of this Act, may be employed as a CATS employee, *if* he holds a current certification for the position.

SOURCE: Added by P.L. 28-183:6 (Jan. 29, 2007). Amended by P.L. 29-106:3 (Aug. 22, 2008).

§ 3129. Employment of CATS Employees.

(a) The Superintendent of Education shall, to the extent possible, fill all positions defined in 1 GCA § 715 Item 12 (a) through (e) and (k), with Certified Employees.

(b) In the absence of Certified Employees the Superintendent may employ CATS. Before he employs a CAT the Superintendent shall issue and post on the Department of Education website a Certificate of Necessity.

SOURCE: Added by P.L. 28-183:7 (Jan. 29, 2007).

§ 3130. Superintendent to Maintain Roster.

The Superintendent shall establish, keep current and post on the Department of Education website a roster of all positions required by the

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

Every Child is Entitled to an Adequate Public Education Act to be filled by a Certified Employee as that term is defined by 1 GCA § 715 Item 13. The roster shall indicate which positions are vacant, which positions are filled with Certified Employees, which positions are filled with CATS and shall include the Certificate of Necessity for each CAT pursuant to Title 17 GCA § 3129 (b).

SOURCE: Added by P.L. 28-183:8 (Jan. 29, 2007).

§ 3131. Employment of Certified Applicants.

When a Certified Applicant who is available for employment for the remainder of a current school year is available to fill a position occupied by a CAT, the Superintendent shall forthwith replace the CAT with a Certified Applicant *if* at least ten (10) weeks remain in the current semester, otherwise at the end of the current semester.

SOURCE: Added by P.L. 28-183:9 (Jan. 29, 2007).

§ 3132. Central Office Budgeting.

(a) Department of Education (DOE) *shall* develop and implement Performance Based Budgeting for all Central Office Operations *no later than* September 30, 2009. Appropriate DOE employees *shall* attend all workshops and training opportunities offered by the Department of Administration regarding Performance Based Budgeting.

(b) Non-compliance of the head of Department of Education (DOE) to Subsection (a) of this Section and to deadlines as established by the Bureau of Budget and Management Research to meet the Performance Based Budgeting implementation deadline *shall* cause a penalty to be applied against the current salary of the head of DOE equal to a twenty percent (20%) reduction in salary. The Guam Education Policy Board *shall* ensure the application of this penalty.

SOURCE: Added by P.L. 29-019:VI:42 (Sept. 29, 2007). Amended by P.L. 29-113:VI:64 (Sept. 30, 2008). Subsection (b) amended by P.L. 30-055:XII:22 (Sept. 22, 2009).

ARTICLE 2
GENERAL EDUCATION MATTERS

SOURCE: This Article was enacted as Chapter 3A by P.L. 24-142 but was

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

renumbered by Compiler to coincide with numbering system. Partially amended by P.L.24-299.This Article was repealed (as Chapter 3A of title 17) by P.L. 26-26:2. New Article 2 was added by P.L. 26-26:3. Amended by P.L. 28-45 as indicated below. Note also that certain amendments to this Article by P.L. 28-45 are to take effect on Oct. 1, 2005 and Oct. 1, 2007.

- § 3201. Island-wide Board of Governing Students.
- § 3202. Same: Meetings of the Student Board.
- § 3203. Same: Acts of the Student Board.
- § 3204. Released Time; Meditation Period.
- § 3205. United States and Guam Flags: Duty of the District Boards.
- § 3206. Same: Pledge of Allegiance to Flag.
- § 3207. Physical Fitness.
- § 3208. Enrichment and Compensatory Programs.
- § 3209. Volunteers in Education.
- § 3210. Student Fund-Raising Activities.
- § 3211. Career Program Counseling.
- § 3212. Gifted Students.
- § 3213. Same: Assessment of Students.
- § 3214. Same: Assessment of Program.
- § 3215. Same: In-service Training of Teachers.
- § 3215.1. Garnishment of Income Tax Refunds in the Event of a Default on Payment of Tuition and Fees
- § 3216. Teacher Personal Leave.
- § 3217. Department of Education's District Action Plan
- § 3218. School Lunch/SAE/Child Nutritional Meal Reimbursement Fund
- §3219. *Onra I Manfâyi.*
- §3220. Construction with Other Laws..

§ 3201. Island-wide Board of Governing Students.

(a) The Island-wide Board of Governing Students (*the Island-wide Board*), which is hereby created, shall consist of a member of the Youth Congress who shall be elected by its members, and two (2) members from each public high school elected by a plurality vote of freshmen, sophomores, juniors and seniors attending the public high schools, voting in an election held in all the public high schools on one (1) day in May of each year. Such election shall be supervised by the Superintendent in cooperation with the student governing bodies of the high schools.

(b) A candidate must be nominated by a petition signed by no less than

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

one hundred (100) freshmen, sophomores, juniors or seniors from the public high schools.

(c) Members of the Island-wide Board must attend the schools they represent and must have and maintain at least a '2.5' grade point average.

(d) No student may be a candidate if under suspension or on academic probation at the time of nomination.

(e) The Island-wide Board shall meet at least once a month during the school year to discuss matters relating to Guam's public education system and to make recommendations to the Board.

§ 3202. Same: Meetings of the Student Board.

Meetings of the Board shall be open and held at a regular time and place each month. Special meetings may be called by the Chairperson.

§ 3203. Same: Acts of the Student Board.

The concurrence of five (5) members of the Board shall be necessary for the validity of any of its acts.

§ 3204. Released Time; Meditation Period.

(a) The Board is authorized to establish and supervise a program whereby students may be released from their regular school attendance for a period of time no greater than one (1) hour each week during the school year, for the purpose of attending religious instruction outside the property and off the grounds of the government of Guam. Provided, however, that this Section in no event shall authorize the participation of the Board, the teachers or any other employees of the government of Guam to assist or aid in any manner, directly or indirectly, the religious instruction of students, or the compulsion of students to attend religious instruction. Provided, further, that this Section shall not be construed to permit the utilization of any property of the government of Guam in any manner whatsoever, for the purpose of such religious instruction.

(b) Meditation Period. The Board is required to establish for each class a period of silent meditation during the first hour of each school day.

§ 3205. United States and Guam Flags: Duty of the District Boards.

The Board shall provide for each public school suitable flags of the United States and Guam, both of which shall be hoisted at each school during all-day sessions, weather permitting. The Board shall also provide smaller and suitable United States and Guam flags to be displayed in each

schoolroom at all times during the school sessions.

SOURCE: Amended by P.L. 26-94:1 to add reference to Guam Flag

§ 3206. Same: Pledge of Allegiance to Flag.

It shall be the duty of the Board to adopt and place into effect for the public schools of Guam, rules and regulations requiring students, at a suitable time during school sessions, to pledge allegiance to the United States flag and to the nation for which it stands. Such pledge shall be in the following words:

‘I pledge allegiance to the flag of the United States of America and to the Republic for which it stands; one nation under God, indivisible, with liberty and justice for all.’

§ 3207. Local Wellness Policy.

(a) In accordance with the Child Nutrition and W.I.C. Reauthorization Act of 2004 and guidelines of the Food and Nutrition Service of the United States Department of Agriculture, DOE shall establish and implement ‘The Local Wellness Policy’ (Policy) as adopted and approved by the Board.

The Board shall adopt a uniform Body Mass Index (BMI) standard in evaluating measurable objectives of the Policy. The Policy shall conform to the standards of the U. S. Department of Health and Human Services' Centers for Disease Control and Prevention and the National Center for Health Statistics.

For purposes of this Section, the BMI is a calculation that uses a child's height, age, and weight to estimate how much body fat he or she has compared to population-referenced standards.

The objectives of the Policy may include, but are not limited to, the adoption of rules, regulations and training for:

- (1) Nutrition, to include optimal nutrition through the School Breakfast, Lunch, and After-School-Snack Programs for student growth, development, and academic achievement;
- (2) Nutrition Education in the school curriculum;
- (3) Physical Fitness, which includes intramural sports, playground equipment, interscholastic sports, and other competitive athletic activities;
- (4) Physical Fitness Education, which includes curriculum and

physical education classes;

(b) DOE schools shall provide annual reports of each student's BMI, which shall be computed and distributed to the student's parents or legal guardians in a manner respecting the dignity and privacy of the student. The BMI report must include:

(1) a statement disclosing that the BMI is used as a screening tool and not an evaluative tool that diagnoses a student as overweight or underweight;

(2) a comprehensive analysis of consequent health problems associated with a student's BMI rating that is not within the suggested BMI range;

(3) provide references for available nutrition and physical activity health programs; and

(4) if applicable, suggest that the parent or legal guardian seek further evaluation from the student's primary physician.

(c) Evaluation of the Policy: DOE and health officials shall utilize data collected from the BMI to apply for grants; to implement accessory nutritional, health or fitness programs; to assess the general health of students; and to evaluate the implementation, objectives and performance of the Policy. DOE shall continually review the Policy and effect improvements in accordance with current nutrition, nutrition education, physical fitness, physical fitness education trends and practices. DOE shall also establish standards for the preparation of evaluative reports with such statistical data and other information as the Board may require.

SOURCE: Repealed and reenacted by P.L. 28-087:2 (Dec. 12, 2005).

§ 3208. Enrichment and Compensatory Programs.

The Board shall adopt a policy providing for enrichment and compensatory education programs to be conducted throughout Guam during June, July and August of each year. The policy may prescribe that, upon the recommendation of the appropriate school administrator, a pupil may be required to be enrolled in a class established as the result of the implementation of this Section.

§ 3209. Volunteers in Education.

The Board is authorized to institute a program within the Department of Education to be entitled, 'Volunteers in Education.' The Board shall, by

its policies, make needful rules and regulations for the utilization of said volunteers in education within the DOE. The Board is authorized to obtain liability insurance coverage for said volunteers.

§ 3210. Student Fund-Raising Activities.

The Board shall promulgate rules and regulations necessary to regulate conduct of fund-raising activities on the part of students, to safeguard the funds raised by such activities, and for the audit of such funds. Said rules and regulations shall include, but need not be limited to the following:

(a) the educational, recreational or cultural rationale necessary to justify the holding of any particular class of school activity;

(b) regulations governing qualifications of firms or persons who may do business with school classes or activities;

(c) regulations governing selection of school personnel who may act in an official or unofficial capacity for students;

(d) regulations requiring that sound business practices be used in the conduct of any school or class activity;

(e) all purchase contracts between vendors and class activities, sponsors or school principals shall be subject to Board approval;

(f) no agreement relative to school or class activities shall exceed one (1) year in duration; and

(g) a requirement that an annual audit of all school and class activity funds be performed and a report filed with the Board and I Liheslaturan Guåhan.

§ 3211. Career Program Counseling.

(a) On and after January 1, of every year, the Board and the Director of the Department of Labor shall make available to secondary students continuing employment and career program counseling to furnish information relating to the employment opportunities available to students graduating from or leaving the public high schools of Guam.

(b) No fee, compensation or other consideration shall be charged to, or received from, any student utilizing such services.

(c) In providing such services, the Board shall consult and cooperate with the Guam Employment Service.

§ 3212. Gifted Students.

The Board shall develop a program of studies that will provide for the development of the unusual and special abilities of gifted students enrolled in the schools of Guam. For the purposes of this Chapter, '*gifted students*' shall mean students who exhibit leadership ability, artistic talent, creativity, outstanding academic ability and high intelligence.

§ 3213. Same: Assessment of Students.

The Board shall cause to be conducted an assessment to identify gifted students within the schools of Guam.

§ 3214. Same: Assessment of Program.

The Board shall cause to be conducted a periodic assessment of the progress of the students in the gifted students program, and the results of said assessment are to be used to determine whether the program should be modified.

§ 3215. Same: In-service Training of Teachers.

The Board shall provide for in-service training for teachers necessary to conduct the program established by § 3212.

§ 3215.1. Garnishment of Income Tax Refunds in the Event of a Default on Payment of Tuition and Fees.

The Department of Education may, subject to the terms and conditions of a *Memorandum of Understanding* with the Department of Revenue and Taxation, garnish the tax refunds due to any former or current employee who has defaulted on the payment of tuition and fees for in-services training and for which a judgment has been issued. Such garnishment shall *not exceed* the judgment amount.

SOURCE: Added P.L. 27-106:VI:44.

§ 3216. Teacher Personal Leave.

Beginning with the school year 2004 – 2005, educators employed by the Department of Education shall be paid unused personal leave in a lump sum at the end of each school year. The amount paid shall be determined by the collective bargaining agreement, to include any judicially compelled extension of a collective bargaining agreement between the exclusive bargaining agent for educators and the Department of Education and shall not exceed twenty-four (24) hours of such unused personal leave.

In lieu of payment, educators may, *at their option*, transfer all unused personal leave to their sick leave account. Such election must be made not

less than thirty (30) days prior to the end of the school year.

SOURCE: Repealed and reenacted by P.L. 27-136:1.

§ 3217. Department of Education's District Action Plan.

The Department of Education is hereby authorized to create a 'District Action Plan' in support of the No Child Left Behind Act of 2001. The Department of Education's District Action Plan shall be established by policy of the Guam Education Policy Board.

SOURCE: Added by P.L. 26-167:1.

§ 3218. School Lunch/SAE/Child Nutritional Meal Reimbursement Fund.

There is hereby created, within the Department of Education ('DOE'), a special fund called the 'School Lunch/SAE/Child Nutritional Meal Reimbursement Fund', which shall be subject to legislative appropriation. All monies collected by DOE from the school lunch program, Federal Funds paid to the government of Guam for reimbursement under the National School Lunch and Breakfast Programs, and State Administrative Expense ('SAE') Funds shall be deposited into said Fund and shall be administered as follows:

(a) The monies in the Fund shall be used for non-personnel operating expenses in accordance with the guidelines established for such programs.

(b) The Department of Education nutrition program shall be in full compliance with the guidelines set forth by the United States Department of Education and the United States Department of Agriculture.

(c) The School Lunch/SAE/Child Nutritional Meal Reimbursement Fund is excluded from the transfer authority of *I Maga'lahaen Guåhan*.

(d) The Superintendent of Education shall submit a separate report of the revenues and expenditures for each of the Fund sources to *I Maga'lahaen Guåhan* and *I Liheslaturan Guåhan* within thirty (30) days of the close of each quarter of Fiscal Year 2005.

SOURCE: Added by P.L. 27:106:VI:18 as section 3217. However, section 3217 was already occupied. Therefore the newly added section was renumbered to section 3218 by Compiler.

§ 3219. Onra I Manfåyi.

(a) The Department of Education with the cooperation of the Office of

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

Veterans Affairs ('Office') shall develop and administer a program to be known as 'Onra I Manfayi.' The purpose of the Program is to award honorary high school diplomas to World War I, World War II, Korean War and Vietnam Conflict Veterans, as well as persons who served in World War II in the Guam Combat Patrol, Wake Island Defenders, Guam Militia or Civilian Scouts. The Department of Education and the Office shall jointly develop an application procedure, distribute applications and publicize the Program.

(b) The Department of Education may award an honorary high school diploma to a current or former Guam resident who:

(1) did not return to school and complete his or her education after the war; and

(2) served in the United States armed services during World War I from 1917 through 1918, World War II from 1939 through 1947, during the Korean War from 1950 to 1955, or the Vietnam Conflict from 1961 through 1975, and

(i) died in active service; or

(ii) was honorably discharged.

(c) A current or former Guam resident, who did not receive a high school diploma and served during World War II in the Guam Combat Patrol, Wake Island Defenders, Guam Militia or Civilian Scouts, may receive an honorary high school diploma.

(d) If a person who would have qualified for an honorary high school diploma under this Section is deceased or incapacitated, a family member may apply for and receive the diploma on the person's behalf.

(e) The Department of Education and the Office shall jointly award the honorary high school diplomas as part of a high school graduation ceremony or as a separate ceremony to be held on or around Veterans Day.

SOURCE: Added by P.L. 28-40:2 as section 3218. However, section 3218 was already occupied. Therefore, the section was renumbered by the Compiler to section 3219. Amended by P.L. 28-166:1 (Jan. 4, 2007).

§ 3220. Construction with Other Laws.

Insofar as the provisions of the **Every Child is Entitled to an Adequate Public Education Act** are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling; and in

17 GCA EDUCATION
CH. 3 DEPARTMENT OF EDUCATION

particular but not by way of limitation, except as may be provided in this Act, no provision of any law shall be applicable to the government of Guam with respect to the provisions of the Every Child is Entitled to an Adequate Public Education Act unless *I Liheslatura* (the Legislature) shall specifically so state.

SOURCE: Added by P.L. 28-45:22 as new § 3210, which was already occupied. Renumbered by Compiler to § 3220.

§ 3221. Responsibility of Accountable Officers.

The provisions contained within Chapter 14 of Title 4 GCA shall apply to any employee of the Department of Education, who by reason of his employment, is considered an accountable officer, and it shall be unlawful for that employee to fraudulently, wastefully or improperly disburse funds or authorize the expenditure of funds not in compliance with criterion established within 1 GCA §715 or in meeting the objectives of 17 GCA §3125 in providing an adequate public education to every public school student.

SOURCE: Added by P.L. 28-45:8 (6/6/05) as § 3218, which was already occupied. Renumbered by Compiler to § 3221, effective, October 1, 2005, in accordance with P.L. 28-045:23..
