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SOURCE: Chapter 3 was repealed and reenacted by P.L. 24-142:4; amended in part by P.L. 24-299 and repealed and reenacted by P.L. 26-26:3.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

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SOURCE: Repealed and reenacted by P.L. 22-042:1 (Nov. 19, 1999), P.L. 24-142:4 (Feb. 27, 1998), P.L. 26-026:3 (July 5, 2001), amended by P.L. 30-050:2 (July 14, 2009).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

The governance of the Department of Education is vested in an education board to be known as “the Guam Education Board” (hereinafter

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referred to as “the Board”). The Board *shall* be composed of nine (9) members.

SOURCE: Repealed and reenacted by P.L. 30-183:1 (Aug. 25, 2010).

2010 NOTE: P.L. 30-183:18, provides;

“Section 18. Implementation Provisions. The provisions of this Act *shall* be effective immediately, *except* that members of the Board elected prior to this Act *shall* serve the remainder of their terms. The election for the first members elected pursuant to this Act *shall* be during the General Election in 2012. Members appointed to fill vacancies of elected members prior to this Act *shall* serve until the appointment and confirmation of new appointed members through this Act. The Superintendent *shall* serve until the expiration of her contract. Unless removed for cause within §3103.1 of this Chapter. The first members appointed through this Act *shall* commence their term at 12:00 noon on the first Monday in January of 2011.”

§ 3102.1. Duties of the Guam Education Board.

The Guam Education Board *shall* be responsible for all policies that govern the Department of Education (hereinafter “Department”). The Board *shall* have the authority to delegate such of its powers as it may deem appropriate, but *shall* retain the ultimate responsibility for the exercise of its powers.

The Board, among other duties, *shall* perform the following in accordance with applicable law:

- (a) select and appoint a Superintendent and support him/her in the discharge of his/her duties;
- (b) receive, evaluate and act upon the recommendations and reports of the Superintendent;
- (c) adopt an annual budget and control expenditures accordingly; review periodic financial reports and modify the budget if and when necessary;
- (d) adopt student performance standards and assessment models;
- (e) ensure that the Superintendent addresses the proper administration of all mandated responsibilities;
- (f) adopt attendance areas and school boundaries;
- (g) sue and/or defend itself in suits at law;
- (h) report routine complaints and concerns related to the Department’s operations directly to the Superintendent for appropriate

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investigation and response;

(i) have *no* business or pecuniary interest which will conflict with the activities of the Board;

(j) establish student discipline policy;

(k) establish a school calendar;

(l) establish graduation standards;

(m) periodically review established policies for refinement and improvement;

(n) 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;

(o) act as the approving authority on behalf of the Department for collective bargaining agreements;

(p) make recommendations to *I Maga'lahaen Guåhan* or *I Liheslaturan Guåhan* for changes, additions or deletions to Guam Education Laws;

(q) each newly elected or appointed Board member *shall* complete, during the first year of that member's first term, a training program to be prepared and offered by the University of Guam and the Department, regarding the skills and knowledge necessary to serve as a local school board member. The training program *shall* include:

(1) review of the Guam Code Annotated and other laws pertaining to DOE;

(2) Roberts Rules of Order;

(3) the budgeting procedures and guidelines of the government of Guam and the Department; and

(4) difference(s) between policy making and micromanagement of the affairs of the Department; and

(r) the role of the Board, as with any legislative body, is to act collectively, not individually. Any Board member shall report to *I Liheslaturan Guåhan* any potential or alleged violation of this Subsection. The Board *shall not*:

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(1) interfere in or micro-manage the affairs of the Department, or schools within the Department; or

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

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010). Amended by P.L. 31-019:1 (Apr. 18, 2011).

§ 3102.2. Meetings of the Board.

Meetings of the Board *shall* be held once a month at a regular time and place as determined by the Board, *except* that special meetings may be called by the Chairman, or by a majority of the members to address emergency matters. Meetings of the Board *shall* be subject to the Open Government Law of Guam. Five (5) members *shall* constitute a quorum, and an affirmative vote of five (5) members is required for any action to be valid.

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010). Amended by P.L. 31-019:4 (Apr. 18, 2011).

§ 3102.3. Composition and Terms of Office for Board Members.

The Board *shall* be composed and serve terms as follows:

(a) Three (3) Appointed Voting Members. *I Maga'lahi shall* appoint, subject to the advice and consent of *I Liheslaturan Guåhan*, one (1) voting member from among each of the following to serve for a term of three (3) years:

(1) one (1) member who is employed in an upper level managerial position in a private business;

(2) one (1) member who is a parent of a student enrolled within the Guam Department of Education; and

(3) one (1) member who is a retired teacher or administrator of the Guam Department of Education.

(b) Six (6) Elected Voting Members. Six (6) voting members *shall* be elected at-large at each General Election. Each elected voting member *shall* serve for a term of two (2) years, commencing at 12:00 noon on the first Monday in January following their election. A candidate for the Board must be *at least* twenty-five (25) years old,

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and a resident of Guam for *at least* five (5) years immediately proceeding the date on which the member takes office and continuing throughout the term.

(1) 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 candidate's name to be placed on 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 Guam and must be filed with the Commission *no 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 period.

(2) The election provided for within this Subsection (b) *shall* be non-partisan, and no political party shall directly or indirectly sponsor, nominate or endorse any of the candidates for such office.

(c) Non-Voting Members. The Board *shall* have the following non-voting members serving a term of one (1) year:

(1) one (1) student member of the Board *shall* be elected by an Island-wide School Board of Governing Students. The student member *shall* be a junior or a senior at a public high school and maintain a grade point average of 2.5 or above; and the student member *shall* receive service-learning credits for the service hours on the Board; and

(2) one (1) member appointed by the exclusive bargaining unit which represents teachers and other employees within the Department.

(d) [Repealed.]

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010). Subsection (c) amended by P.L. 31-019:2 (Apr. 18, 2011). Subsection (d) repealed by P.L. 31-019:3 (Apr. 18, 2011).

§ 3102.4. Officers of the Board.

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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. 30-183:2 (Aug. 25, 2010).

§ 3102.5. Removal of Board Members.

A member of the Board may be removed by a vote of six (6) members for malfeasance in office or for persistent neglect of, or inability to discharge duties or for offenses involving moral turpitude. However, no member of the Board shall be removed from office before a written bill of particulars shall have been given to the accused and before an investigation and an open and public hearing shall have been had. Any member who removes his residence from Guam *shall* be deemed to have vacated his office, thereby creating a vacancy on the Board.

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

- (a) upon conviction of a felony;
- (b) 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) upon conviction of a crime involving moral turpitude.

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010).

§ 3102.6. Stipend for Board Members.

Members of the Board *shall* be paid the amount of Two Hundred Fifty Dollars (\$250.00) for each day on which they attend a regular, special or executive meeting, *not to exceed* Five Hundred Dollars (\$500.00) in any month.

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010).

§ 3102.7. Board Member Vacancies.

- (a) Elected Members. Any vacancies, including initial vacancies, of

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electd member positions occurring on the Board *shall* be filled forthwith by appointment of the unsuccessful candidate 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 provided within this Subsection, *I Maga'lahaen Guåhan shall* appoint a member for the term or remaining term of office, subject to confirmation by *I Liheslaturan Guåhan*.

(b) Appointed Members. On the expiration of the term of an appointed member, or in the event of a vacancy on the Board due to resignation, death, or any other cause, *I Maga'lahi shall* appoint another member, with the advice and consent of *I Liheslatura*, for a full term in the first instance, or for the remainder of the unexpired term. When there is a change of administration of the government of Guam after a gubernatorial election, no courtesy resignation shall be requested by the new administration nor offered by any member of the Board.

SOURCE: Added by P.L. 30-183:2 (Aug. 25, 2010).

§ 3103. Superintendent of Education.

The Superintendent of Education (the Superintendent) *shall* be the Chief Executive Officer of the internal operating organization of the Department of Education and *shall* be responsible for the administration of the academic and services activities thereof. The Superintendent *shall* be responsible for implementing the policies adopted by the Board. The Board *shall* appoint the Superintendent of Education by an affirmative vote of *at least* six (6) members. Notwithstanding any other provision of law, the employment of the Superintendent *shall* be by contract term of four (4) years, which contract *shall* contain a provision that the Superintendent's employment may only be terminated for cause, as defined in this Chapter. 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

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and rules and regulations of the Department;

(3) administer federal funds/programs on behalf of the Department;

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

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

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

(7) *shall* submit to the Board, *I Maga'lahren 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'lahren 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'lahren Guåhan* and *I Liheslaturan Guåhan* for changes, additions, or deletions to public law;

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

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(13) With the concurrence of the Board and subject to the availability of funds, have the authority to hire maintenance, custodial/janitorial, and cafeteria personnel.

(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 physical locations within the Department. 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 budget status report of all local and federal funds available to the Department, whether or not their resources require appropriations by *I Liheslaturan Guåhan*. The monthly budget status report *shall* be designed by the Educational Financial Supervisory Commission and at a minimum contain all appropriations, transfers and adjustments, revised appropriations, expenditures to date, outstanding encumbrances and unencumbered balances. The data for the monthly budget status report *shall* be provided *no later than* fifteen (15) calendar days after the end of each month, and be used by the Educational Financial Supervisory Commission for its monthly Financial Status Designation Reports. The Educational Financial Supervisory Commission *shall* design an Adequate Public Education Report to reorganize the expenditures in the monthly budget status report to the criteria established in Title 1, GCA §715, and the status of compliance with the Adequate Education Act. The Monthly Budget Status report and Adequate Public Education reports are to be completed *no later than* twenty five (25) calendar days after the end of each month and *shall* be certified by the Superintendent, acknowledging compliance or non-compliance with Title 1, GCA § 715 and in meeting the objectives of § 3125 of this Chapter. The reports *shall* be submitted to the Board, the Speaker of *I Liheslaturan Guåhan*, and *I Maga'lahen Guåhan*.

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

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(A) to ascertain whether the Department 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;

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

(E) to evaluate board policies, practices and directives, and recommend, if necessary, corrections and revisions necessary to improve the quality of public education; and

(F) to assess a broad range of management functions, such as the following: decision-making and evaluation processes, policy-making, resource allocation, communication procedures, and goal setting and verification. The assessment can also examine the school system's work environment, improvement process, and relationship with the community.

Said assessments *shall* also identify and assess deficiencies in the DOE organizational structure; compliance with federal and local laws, and with board policies; physical and operational security; 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 and training of teachers; and recruitment, training and staff development. Said assessments *shall* be conducted at intervals determined by the Guam Education Board of *not more than* five (5) years. Each assessment *shall* also include a report and evaluation on the degree of success that Department of Education has achieved in implementing the recommendations and correcting the deficiencies identified in the *immediate prior assessment*.

The GDOE Superintendent *shall* transmit, within forty-five (45) days upon receipt, any assessment conducted pursuant to this Act to

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the Guam Education Board members. Within ninety (90) days of receipt of such assessment findings, the Guam Education Board members *shall*, in a regularly scheduled board meeting held in compliance with the Open Government Law, vote to accept or reject the assessment findings, and *shall* take any necessary actions for the disposition thereof.

The Department *shall* post on its website and transmit to the Speaker of *I Liheslaturan Guåhan* and the Chairperson of the Committee of Education the disposition and plan of action of the assessment findings.

(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). Repealed and reenacted by P.L. 30-183:3 (Aug. 25, 2010). Subsection (13) added by P.L. 31-015:1 (Apr. 18, 2011). Subsection (15) amended by P.L. 31-075:15 (Aug. 4, 2011). Subsection (16) amended by P.L. 31-091:1 (Sept. 30, 2011).

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.

§ 3103.1. Termination of Superintendent.

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

- (1) Failure to meet performance standards as defined by a performance evaluation outline established and adopted by the Board;
- (2) Holding financial interests that conflict with the conscientious performance of his or her duties;
- (3) Engaging in financial transactions using confidential or non-public Department information or allowing the improper use of such information to further any private interests;

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(4) 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 the Department, or from persons whose interest may be substantially affected by the performance or nonperformance of the Superintendent's duties, or the duties of the Department;

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

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

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

(8) 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;

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

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

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

(12) Criminal acts involving moral turpitude;

(13) Political activity prohibited by law;

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

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

(16) Abandonment of his or her position.

SOURCE: Added by P.L. 30-183:4 (Aug. 25, 2010).

§ 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

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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 *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 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's 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.

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(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 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.

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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. [Repealed.]

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

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:1 (Oct. 26, 2007). Repealed by P.L. 30-183:5 (Aug. 25, 2010). Added by P.L. 31-040:4 (May 16, 2011).

§ 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. [Repealed.]

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:2 (Oct. 26, 2007). Repealed by P.L. 30-183:6 (Aug. 25, 2010).

§ 3111.1 Provision for Staggered Elections. [Repealed.]

SOURCE: Added by P.L. 29-041:6 (Oct. 26, 2007). Amended by P.L. 29-113:VI:66 (Sept. 30, 2008). Repealed by P.L. 30-183:7 (Aug. 25, 2010).

§ 3112. Same: Duties and Responsibilities. [Repealed.]

SOURCE: Subsection (a)(16) added by P.L. 27-32:5. (10/31/03). Subsection (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). Amended by P.L. 30-164:3 (July 16, 2010). Repealed by P.L. 30-183:8 (Aug. 25, 2010).

§ 3112.1. Same: Policy Against Bullying.

(a) As used in this Section:

(1) “at school” means in a classroom, elsewhere on or within school fences 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.

(3) “Cyberbullying” means the use of any electronic communication device to harass, intimidate or bully as defined in the above Subsection (2).

(b) The Guam Education Board (Board) *shall* adopt a policy prohibiting “harassment, intimidation, or bullying” and “cyberbullying” at school. The content of the policy *shall* be determined by the Board but *shall* contain *at least* the components in Subsection (c). 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” and “cyberbullying” of a pupil.

(2) A definition of “harassment, intimidation, or bullying” and “cyberbullying” 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.

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

(5) A procedure for reporting an act of “harassment, intimidation, or bullying” and “cyberbullying”, including a provision that permits a person to report an act of “harassment, intimidation, or bullying” and “cyberbullying” 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” and “cyberbullying” is identified.

(8) A statement that prohibits reprisal or retaliation against any person who reports an act of “harassment, intimidation, or bullying” and “cyberbullying”, 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” and “cyberbullying”.

(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” and “cyberbullying”.

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

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(13) A school employee who promptly reports an incident of “harassment, intimidation, or bullying” and “cyberbullying” 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, intimidation, or bullying” and “cyberbullying” 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 June 30, 2011.

(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" and "cyberbullying" 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” and “cyberbullying” policies to the school community and volunteers who have significant contact with pupils; and

(2) develop a process for discussing the “harassment, intimidation, or bullying” and “cyberbullying” policy with pupils as part of the curriculum.

(h) A school *shall* incorporate information regarding its policy against “harassment, intimidation, or bullying” and “cyberbullying” 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” and

“cyberbullying”.

(k) “harassment, intimidation, or bullying” and “cyberbullying” are CRIMINAL IN NATURE and any of these actions can constitute a criminal offense that is chargeable under Guam law.

SOURCE: Added by P.L. 27-071:2 (Feb. 4, 2004). Amended by P.L. 31-009:9 (Mar. 9, 2011).

§ 3112.2. Safe Schools Program: School Crime Stoppers.

The Guam Education Board (Board) *shall* adopt a policy to address crimes being committed within the Guam Department of Education (GDOE) schools. The Board *shall* implement crime-prevention efforts found successful in other jurisdictions and implement such policies.

The policy *shall* include, but is *not* limited to, the following:

(a) School Safety Coordinator. Each school *shall* identify a School Safety Coordinator (an administrator or school counselor) who will be responsible for overseeing the Program for individual GDOE schools.

(b) School Crime Stoppers Coordinator. The Guam Police Department Chief of Police will assign an employee of the Guam Police Department to serve as the School Crime Stoppers Coordinator to work with GDOE School Safety Coordinators, and to serve as liaison to Guam Crime Stoppers, Inc. and the Guam Police Department.

(1) The School Crime Stoppers Coordinator will be responsible for organizing awareness and education events for students, and the broader community, with the Guam Police Department, the Guam Crime Stoppers, the Office of the Attorney General, the Mayors Council of Guam, and other relative agencies and organizations, as well as training events for administrators, faculty, staff, school parent organizations and families.

(2) Partnership with Guam Crime Stoppers, Inc. The Board *shall* explore options of developing a partnership with Guam Crime Stoppers, Inc. to identify the School Crime Stoppers Program needs, such as securing phone services, the possible implementation of procedures for online web tips for the

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reporting of crimes that occur on GDOE campuses, and other related needs.

(3) The School Crime Stoppers Coordinator will forward reports of tips and calls that have led to arrests for crimes to the Guam Crime Stoppers Board of Directors for disposition, in accordance with the organization's current procedures. For infractions or instances where the event is *not* a criminal activity, the School Safety Coordinator and the School Crime Stopper Coordinator will determine, *or* make a referral for, the appropriate disciplinary action, *or* make a referral to the appropriate entity.

(4) The School Crime Stoppers Coordinator and the School Safety Coordinators *shall* coordinate with the Guam Crime Stoppers, Inc., and make recommendations for policy relative to fundraising efforts to support the School Crime Stoppers program. Said recommendations *shall* be presented to the GDOE Board and Superintendent of Education for consideration and subsequent development of policy.

(c) Data Collection. The Guam Department of Education School Safety Coordinators and School Crime Stoppers Coordinator will work in tandem to collect statistical data generated from call-ins or web tips of crimes or violations.

(1) Statistical data may be used to obtain grants intent on increasing student involvement and achievement, and the promotion of safe, crime-free schools and communities.

(2) The data *shall* be published quarterly for public review on the Guam Department of Education website.

(d) Both the School Safety Coordinators and the School Crime Stopper Coordinator will be responsible for determining what appropriate disciplinary action will be taken or referrals will be made to appropriate authorities if what is reported is *not* a crime. If what is reported, however, is a crime, the coordinators shall forward it to the appropriate authorities for disposition.

(e) Implementation. The Program *shall* be implemented in all Guam Department of Education schools.

SOURCE: Added by P.L. 31-100:2 (Sept. 30, 2011).

§ 3113. Same: Elected Members. [Repealed.]

SOURCE: Repealed by P.L. 30-183:9 (Aug. 25, 2010).

§ 3114. Nomination for Election to the Board. [Repealed.]

SOURCE: Repealed/reenacted by P.L. 26-129:1 in time for the 2002 election. Repealed by P.L. 30-183:10 (Aug. 25, 2010).

§ 3115. Same: Term of Office of Elected Members. [Repealed.]

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. P.L. 28-150:V:37 and 38 (Sept. 30, 2006) and P.L. 29-041:3 (Oct. 26, 2007). Repealed by P.L. 30-183:11 (Aug. 25, 2010).

§ 3116. Same: Repeal of Temporary Governance by I Maga'lahen Gu'ahan. [Repealed]

SOURCE: Repealed by P.L. 30-183:12 (Aug. 25, 2010).

§ 3117. Same: Vacancies.

[Repealed.]

SOURCE: Amended by P.L. 28-068:II:I:25 (Sept. 30, 2005), P.L. 28-150:V:36 and 38 (Sept. 30, 2006). Subsection (a) amended by P.L. 29-041:4 (Oct. 26, 2007). Repealed by P.L. 30-183:13 (Aug. 25, 2010).

§ 3118. Same: Severability as to Districting Formula. [Repealed.]

SOURCE: Repealed by P.L. 30-183:14 (Aug. 25, 2010).

§ 3119. Same: Officers of the Board. [Repealed]

SOURCE: Added by P.L. 26-026:3 (July 5, 2001). Amended by P.L. 29-041:5 (Oct. 26, 2007). Repealed by P.L. 30-183:15 (Aug. 25, 2010).

§ 3120. Same: Stipend. [Repealed]

SOURCE: Repealed by P.L. 30-183:16 (Aug. 25, 2010).

§ 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 Gu'ahan*, and a courtesy copy to *I Maga'lahen Gu'ahan*, 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' 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 (Sept. 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. [Repealed.]

SOURCE: Repealed by P.L. 31-021:1 (Apr. 18, 2011).

§ 3124. Removal of Elected Board Members. [Repealed.]

SOURCE: Repealed by P.L. 30-183:17 (Aug. 25, 2010).

§ 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.

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(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.**

(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:1:24 (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

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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.

(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

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“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 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.

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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 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.

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(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).

§ 3133. Establishment and Composition Guam Department of Education Financial Supervisory Commission.

(a) The Guam Department of Education Financial Supervisory Commission (EFSC) *shall* consist of five (5) regular voting members and one (1) alternate member, who *shall* be allowed to cast a vote *only* in the event a regular voting member is absent. The EFSC *shall* be comprised of the following members:

(1) The Director of the Department of Administration, *or* designated representative, who *shall* be member of the Senior Management Staff;

(2) The Director of the Bureau of Budget and Management Research, *or* designated representative, who *shall* be member of the Senior Management Staff;

(3) The Director of the Office of Finance and Budget, *or* designated representative;

(4) The Public Auditor, *or* designated representative;

(5) A parent of a child currently enrolled in a public school, appointed by the Chairperson of the Committee on Education of *I Liheslaturan Guåhan*, with *at least* five (5) years experience in the public or private sector in the management of business *or* financial expertise, public accounting, *or* similar professional activity;

(6) The General Accounting Supervisor of the Department of Administration (Alternate);

(7) The Superintendent of Education *shall* serve as the Executive Secretary of the EFSC in an ex-officio, nonvoting capacity; and

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(8) The Deputy Superintendent of Finance of GDOE *shall* serve as an ex-officio member in a nonvoting capacity.

(b) EFSC Structure:

(1) The Director of the Bureau of Budget and Management Research *shall* serve as the Chairperson of the EFSC;

(2) The Director of the Office of Finance and Budget *shall* serve as the Vice Chairperson;

(3) The EFSC *shall* meet *at least* once per month using a generally accepted set of parliamentary procedures to govern meetings;

(4) Three (3) members *shall* constitute a quorum for the transaction of any EFSC business. In the absence of a quorum, all meetings *shall* be cancelled and rescheduled within three (3) working days of the cancelled meeting;

(5) Failure of the EFSC to meet in any month *shall* result in a Two Hundred Fifty Dollars (\$250) fine for each member, which *shall* be deposited into the GDOE Interscholastic Sports Program.

(c) EFSC Scope of Authority, Duties and Responsibilities Granted. The scope of authority, duties, and responsibilities granted in this Subsection *shall* be for the purpose of organizing and assembling government of Guam resources to:

(1) make recommendations on policies and practices related to the presentation and preparation of the operating budget request;

(2) make recommendations on budget request priorities;

(3) review and approve a fiscal year twelve (12)-month Expenditure Operations Plan based on the appropriation of local funds and expected funds from other sources by September 25 for the next Fiscal Year;

(4) review and approve a fiscal year twelve (12)-month Human Resources Management Plan by September 25 for the next Fiscal Year, inclusive of merit increases, promotions and hiring that directly supports the plan outlined in (3) of this Subsection;

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(5) review GDOE internal hiring policies, procedures and controls and make recommendations to the Superintendent of Education;

(6) develop financial performance indicators that produce a monthly financial status designation as outlined in Subsection (d) of this Section;

(7) review GDOE financial reports for conformity with annual budget objectives;

(8) monitor expenditures that materially exceed (or will exceed on an annualized basis) the approved budget amount for any given expense category;

(9) review and approve all contracts/expenditures in excess of One Million Dollars (\$1,000,000) prior to issuance of purchase orders and bid awards to verify fund expenditures conform to the plan outlined in (3) of this Subsection;

(10) monitor all contracts and renewal dates for food service, school maintenance, office reproduction equipment, solid waste disposal and telecommunication;

(11) develop a needs assessment of the GDOE Accounting Department and recommend a training plan to the Superintendent of Education;

(12) review GDOE internal accounting procedures and controls and make recommendations to the Superintendent of Education; and

(13) review all information technology purchases and upgrades related to the financial management of GDOE and provide recommendations to the Superintendent of Education.

(d) Financial Status Designations.

(1) CODE A means *Stable*, indicating that the GDOE has positive variance reports in all budgeted expense categories at the time of reporting;

(2) CODE B means *Warning*, indicating that the GDOE has a negative variance report exceeding ten percent (10%) of the year-to-date budgeted amount in an expense category *or* five percent (5%) in aggregate at the time of reporting;

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(3) CODE C means *Watch*, indicating that the GDOE has a negative variance report exceeding two percent (2%) of the approved budget amount when combining year-to-date actual and annualized projections at the time of reporting; and

(4) CODE RED indicates *Emergency*, whereby there is a failure to implement a corrective financial recovery plan within fifteen (15) working days of submission to EFSC as outlined in Subsection (e)(3) of this Section. An emergency may also be declared by a unanimous vote of all EFSC members should the GDOE and GEPB fail to submit a Corrective Financial Recovery Plan that is acceptable to address conditions which caused the financial status *Watch* designation.

(e) Financial Status Designations; Actions.

(1) CODE A-*Stable*. No action required;

(2) CODE B-*Warning*. The Superintendent of Education, in conjunction with the Deputy Superintendent of Finance, *shall* submit an explanation of variance within five (5) working days of an EFSC *Warning* to the GEPB and EFSC that explains each expenditure category above the approved budget amount as outlined in Subsection (c)(3) of this Section;

(3) CODE C-*Watch*. The Superintendent of Education, in conjunction with the Deputy Superintendent of Finance, *shall* submit a Corrective Financial Recovery Plan to eliminate *Watch* conditions within twenty (20) working days of an EFSC-issued *Watch* to the GEPB. The GEPB *shall* review, modify and approve by resolution the corrective Financial Recovery Plan and submit it to the EFSC within fifteen (15) working days of receipt from the Superintendent of Education; and

(4) CODE RED-*Emergency*. Under an emergency declaration, EFSC may assume all *or* part of the decision making powers of the Superintendent of Education and the GEPB until a corrective financial recovery plan is developed, implemented and successful in alleviating the conditions which caused the financial status *Watch* designation.

SOURCE: Added by P.L. 30-164:2 (July 16, 2010).

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ARTICLE 2
GENERAL EDUCATION MATTERS

SOURCE: This Article was enacted as Chapter 3A by P.L. 24-142 but was 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.
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- § 3221. Responsibility of Accountable Officers.
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§ 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

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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 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

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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.

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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

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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 Veterans Affairs (“Office”) shall develop and administer a program to be known as “Onra I Manfåyi.” 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

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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 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.

§ 3222. Career Information Delivery System.

(a) The Department of Education (DOE) *shall* establish a Career Information Delivery System pilot program beginning the School Year 2012-2013 for public middle school students upon enrollment to seventh (7th) or eighth (8th) grade, and to public high school students upon enrollment in ninth (9th) or tenth (10th) grade. By November 1, 2011, the Superintendent of Education (Superintendent) *shall* select one (1) public

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high school to participate in the pilot program, which *shall* include all the public middle schools that feeds into the public high school. The Superintendent *shall* submit quarterly reports to the Board of Education (Board) regarding the progress of the pilot program, and by January 9, 2015, submit a final report detailing the Superintendent's recommendations on whether the pilot program should be continued, expanded, or terminated, subject to review and approval of the Board.

(b) Development and Implementation. The first meeting *shall* convene *no later than* November 14, 2011. The Superintendent or his/her designee *shall* consult with the President of the Guam Community College or his/her designee and the President of the University of Guam (UOG) or his/her designee to identify and recommend the following:

(1) the appropriate Career Information Delivery System tool to be utilized;

(2) the funding and resources required to support the implementation of the Career Information Delivery System;

(3) the procedures, rules and timeline to conduct the Career Information Delivery System;

(4) the inventory reports to be generated, their purpose and rules for use by students, parents, educators, DOE counselors, DOE administrators and Department of Labor officials; and

(5) the necessity for DOE to enter into a Memorandum of Agreement with other parties to implement the Career Information Delivery System.

(c) The Career Information Delivery System tools and procedures described in Subsection (b) of this Section *shall* be approved by the Superintendent.

(d) A Career Information Delivery System Committee *shall* be established to review the development, implementation, and the dissemination of the data from the Career Information Delivery System. The Committee *shall* be comprised of the following members: the Superintendent, or his/her designee as Committee chair; a school program consultant of DOE appointed by the Superintendent; the President of GCC, or his/her designee; and the President of UOG, or his/her designee.

(e) The public-schools participating in the program *shall* establish a

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committee to execute the career interest inventories, and the committee *shall* report to the Career Information Delivery System Committee. The school principal *shall* appoint the following individuals to the committee: a designated representative; a Career Technical Education Counselor, or a DOE Counselor who is familiar with Career Technical Education (CTE); and a certified teacher, preferably one who is certified in CTE or who is familiar with CTE.

(f) Results and Data. DOE *shall* collaborate with GCC and UOG to identify supplemental data that can be collected from the career interest assessments for the planning and development use by education officials and Department of Labor officials.

(1) The results of the assessment *shall* provide a cluster of career interests to the student. The following *shall* be included in the summary of results:

- (i) the cluster of career concentrations;
- (ii) a list of job options per cluster;
- (iii) a summary explaining why these careers will suit the student's interest; and
- (iv) guidance and counseling on education and training opportunities related to students' Career Information Delivery System.

(2) The data per age group *shall* reflect the different career options and the number of students who show interest in those career options. The data *shall* be used by GCC, UOG and DOE to determine curriculum improvements for each interest.

SOURCE: Added by P.L. 31-080:2 (Sept. 30, 2011).
