

*I Mina'trentai Sais Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
219-36 (LS)	Amanda L. Shelton Tina Rose Muña Barnes Telena Cruz Nelson Mary Camacho Torres Telo T. Taitague Frank Blas Jr. Joanne Brown V. Anthony Ada	AN ACT TO AMEND §§ 41210(a) AND (b); AND TO ADD A NEW § 41210(g), ALL OF, ARTICLE 2, CHAPTER 41, TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CERTIFICATION OF A SEVERE DISABILITY AS AN IMPEDIMENT TO EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.	10/28/21 3:01 p.m.	11/1/21	Committee on Public Accountability, Human Resources, the Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Libraries, Telecommunications, and Technology	12/17/21 9:00 a.m.	2/11/22 3:34 p.m.	Request: 11/4/21  Waiver:11/5/21	2/22/22 10:24 A.M. Supplement Document to the Committee Report on Bill No. 219-36 (LS). As amended by the Committee



Vice Speaker

**TINA ROSE MUÑA BARNES**

**CHAIRPERSON, COMMITTEE ON RULES**

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February 22, 2022

# MEMO

**To:** **Rennae Meno**  
Clerk of the Legislature

**From:** **Vice Speaker Tina Rose Muña Barnes**  
Chairperson, Committee on Rules

**Re: Supplemental Information to the Committee Report on Bill No. 219-36 (LS) As amended**

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*Buenas yan Håfa adai,*

Please include this memo and attached documents as a "Supplement to the Committee Report" for the Committee Report on **Bill No. 219-36 (LS) As amended by the Committee on Public Accountability, Human Resources, the Guam Buildup, Hagåtña Revitalization, Regional Affairs, Public Libraries, Telecommunications, and Technology.**

Please make the appropriate indication in your records and forward to MIS for posting on our website. I also request that the same be forwarded to all Senators.

If you have any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director, at 472-2461.

*Si Yu'os Ma'åse',*

**Vice Speaker Tina Rose Muña Barnes**  
Chairperson, Committee on Rules





Office of the Vice Speaker

**TINA ROSE MUÑA BARNES**

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CHAIRPERSON  
COMMITTEE ON RULES

COMMITTEE ON  
PUBLIC ACCOUNTABILITY  
HUMAN RESOURCES  
GUAM BUILDUP  
HAGÁTÑA REVITALIZATION  
REGIONAL AFFAIRS  
PUBLIC LIBRARIES  
TELECOMMUNICATIONS  
TECHNOLOGY

February 21, 2022

**MEMORANDUM**

**To:** **Mary Maravilla**  
COR Director, 36<sup>th</sup> Guam Legislature  
**Rennae Meno**  
Clerk of the Legislature

**From:** **Vice Speaker Tina Rose Muña Barnes**

**Subject:** **Supplemental to the Committee Report on Bill No. 219-36 (LS),  
as amended**

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*Buenas yan Håfa Adai!*

Attached to this letter is testimony for Bill No. 219-36 (LS), as amended that was received by my office. I would like to add the appended testimonies as a Supplement to the Committee Report.

Please make the appropriate indication in your records and forward to MIS for posting on our website. I also request that the same be forwarded to all senators.

Thank you for your attention to this matter, and do not hesitate to contact me should you have any questions.

**COMMITTEE ON RULES**

**RECEIVED:**

February 22, 2022

8:00 A.M.

The Rehabilitation Services Administration (RSA) has reviewed Bill 219-36, which was introduced on October 28, 2021, and is providing you with our analysis and concerns about the effect this bill, as currently written, would have on the ability of the Guam Division of Vocational Rehabilitation (GDVR), the designated State unit in Guam for the vocational rehabilitation (VR) program, to retain and perform its statutory functions required in the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act. In particular, the introduced legislation proposes to replace the authority of VR counselors to make eligibility determinations for the VR program and assign this authority to a license medical practitioner, which would conflict with the requirements under the Rehabilitation Act and Federal VR program regulations in 34 C.F.R. 361.

RSA, located in the Office of Special Education and Rehabilitative Services in the U.S. Department of Education (Department), is the administrative entity responsible for oversight of VR programs under the Rehabilitation Act funded through the Department. In Guam, the designated State unit that is primarily concerned with VR services for individuals with disabilities and is responsible for the administration of the VR program is GDVR. As the designated State unit in Guam, GDVR has sole responsibility to carry out the functions of the VR program in accordance with the VR services portion of the Combined State Plan for Guam to assist individuals with disabilities to obtain, maintain, regain, and advance in employment.

In the proposed legislation (Bill 219-36), the authority for all eligibility determinations would be delegated to a Guam licensed medical practitioner and no longer be a function of Vocational Rehabilitation Counselors employed by GDVR. Pursuant to 34 CFR § 361.13(c) certain functions are solely the responsibility of the DSU and these functions may not be delegated to any other agency or individual. At a minimum, these “non-delegable” responsibilities relate to decisions affecting—

- Eligibility, the nature and scope of services, and the provision of those services (34 CFR § 361.13(c)(1)(i));
- The determination that individuals have achieved employment outcomes (34 CFR § 361.13(c)(1)(ii));
- Policy formulation and implementation (34 CFR § 361.13(c)(1)(iii));
- The allocation and expenditure of VR funds (34 CFR § 361.13(c)(1)(iv)); and
- The participation of the DSU in the one-stop service delivery system in accordance with Title I of the *Workforce Investment Act (WIA)* and the regulatory requirements specified in 20 CFR Part 662 (34 CFR § 361.13(c)(1)(v)).

As noted above, 34 CFR § 361.13(c)(1) specifies that eligibility determinations for the VR program can only be made by the designated State unit. Furthermore, Federal regulations at 34 CFR § 361.13(c)(2) require that these functions may not be delegated to any other agency or individual.

In addition, the Rehabilitation Act and regulations make it clear that several functions of the VR counselor can only be performed by qualified vocational rehabilitation counselors employed by

the agency. The functions that cannot be delegated to other non-qualified employees are listed below:

- Determination of eligibility - A qualified VR counselor employed by the agency must determine if an individual requires VR services to prepare for, secure, retain or regain employment (34 CFR § 361.42(a)(1)(iii)).
- Development of the Individualized Plan for Employment (IPE) - A qualified VR counselor employed by the agency must approve and sign the IPE (34 CFR § 361.45(d)(3)(ii)).
- Review of the IPE, at least annually - A qualified VR counselor must review the IPE, at least annually, to assess the individual's progress in achieving the identified employment outcome (section 102(b)(2)(E) of the Act and 34 CFR § 361.45(d)(5)).
- Amendment of the IPE - A qualified VR counselor employed by the agency must agree to and sign an amendment to an individual's IPE in order for it to take effect (34 CFR § 361.45(d)(7)).
- Case closure - A qualified VR counselor employed by the agency must determine that an individual's employment outcome is satisfactory and that the individual is performing well on the job before the individual can be considered to have achieved a successful employment outcome and the individual's case can be closed (34 CFR § 361.56(c)).

In conclusion, upon RSA's review of Bill 219-36, it appears that the proposed legislation is not compliant with the requirements of the Rehabilitation Act and the Federal VR program regulations.

We hope you find this information helpful. If you have further questions regarding this matter, please do not hesitate to contact me.

Thank you.

Jason T. Hunter  
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State Monitoring and Program Improvement Division  
Rehabilitation Services Administration  
Office of Special Education and Rehabilitative Services  
U.S. Department of Education  
Phone: 202-245-7574  
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I am in receipt of the following correspondence regarding proposed Bill 219 from the Office of USDOE Rehabilitation Services Administration on Friday, February 11, 2022.

For review.



2/14/22

**Joseph A. Cameron**

Designated State Unit Director

Guam Division of Vocational Rehabilitation