

I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
420-32 (COR)	Judith T. Won Pat, Ed.D.	AN ACT TO APPROVE THE RULES AND REGULATIONS GOVERNING THE STANDARDS FOR PROFESSIONAL CONDUCT FOR GUAM EDUCATORS.	11/12/14 12:44 p.m.	11/13/14	Committee on Education, Public Library and Women's Affairs			



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

November 13, 2014

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

MEMORANDUM


Speaker
Judith T.P. Won Pat, Ed.D.
Member

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

Senator
Dennis G. Rodriguez, Jr.
Member

Attorney Therese M. Terlaje
Legislative Legal Counsel

Vice-Speaker
Benjamin J.F. Cruz
Member

From: **Senator Thomas C. Ada** 
Acting Chairperson of the Committee on Rules

Legislative Secretary
Tina Rose Muña Barnes
Member

Subject: **Referral of Bill No. 420-32(COR)**

Senator
Frank Blas Aguon, Jr.
Member

As the Acting Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 420-32(COR)**.

Senator
Michael F.Q. San Nicolas
Member

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Senator
V. Anthony Ada
Member
MINORITY LEADER

Should you have any questions, please feel free to contact our office at 472-7679.

Senator
Aline Yamashita
Member

Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
2014 (SECOND) Regular Session

Bill No. 420-32 (COR)

Introduced By:

Judith T. Won Pat, Ed.D. 

2014 NOV 19 PM 12:04
CANCELED

**AN ACT TO APPROVE THE RULES AND REGULATIONS
GOVERNING THE STANDARDS FOR PROFESSIONAL
CONDUCT FOR GUAM EDUCATORS.**

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

2 **Section 1. Approval of Rules and Regulations.** The Rules and Regulations
3 Governing the Standards for Professional Conduct for Guam Educators as
4 contained in Exhibit 1 and attached here are hereby approved.

5 **Section 2. To add a new Subsection 27008.1 to Chapter 27, Division 3 of**
6 **17 Guam Code Annotated. Subpoena Powers.**

7 The Chairperson of the Guam Commission For Educator Certification, upon
8 his / her own initiative, upon the request of any member of the Commission, or
9 upon the request of any party before the Commission, may summon in writing any

1 person before a meeting of the Commission as a witness and in a proper case, to
2 bring with him / her any book, record, or paper which may be deemed material as
3 evidence in the case. The fees for such attendance shall be the same as the fees of
4 witnesses before the Superior Court, except that if the witness is a government
5 employee no witness fees shall be given. The subpoena shall issue in the name of
6 the Guam Commission For Educator Certification, and shall be directed to the
7 person and shall be served in the same manner as subpoenas and testify before the
8 court. If any person or persons summoned to testify shall refuse or neglect to obey
9 said subpoena, upon petition, the court may compel the attendance of such persons
10 or persons before the Commission, or punish said person or persons for contempt
11 in the same manner provided by law for securing the attendance of witnesses of
12 their punishment for neglect or refusal to attend in the Superior Court.

13 **Section 3. To add a new Subsection 27008 (i) to Chapter 27, Division 3**
14 **of 17 Guam Code Annotated. Investigative Powers.**

15 (i) Investigate complaints filed with the Commission on educator
16 misconduct.

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RULES GOVERNING THE STANDARDS OF PROFESSIONAL CONDUCT FOR GUAM EDUCATORS

1.0 Title

- 1.01 These rules shall be known as the Guam Rules Governing the Standards of Professional Conduct for Guam Educators.

2.0 Purpose

- 2.01 The purpose of the Rules Governing the Standards of Professional Conduct for Guam Educators is to define standards of professional conduct and to outline procedures for investigations and enforcement of the Standards.
- 2.02 The professional, ethical educator contributes to the development and maintenance of a supportive student-centered learning community that values and promotes human dignity, fairness, care, and the greater good and individual rights. These values are the ethical premises for the Standards of professional behavior and ethical decision-making established in this *Standards of Professional Conduct for Guam Educators*. By establishing Standards of ethical conduct, this code promotes the health, safety, and general welfare of students and educators and ensures the citizens of Guam a degree of accountability within the education profession.
- 2.03 All certificated educators are subject to these rules and regulations.

3.0 Definitions

For the purposes of these rules, the following terms mean:

- 3.01 **Child** means a person under the age of 18 years.
- 3.02 **Complaint** may be filed with the Guam Commission For Educator Certification (GCEC) by any interested party within one year from the date of the alleged misconduct. If the alleged misconduct is of a continuing nature then the complaint must be filed within one year from the last date on which the conduct occurred. Complaints involving sexual abuse or exploitation of a child or student may be filed up until three years after the student reaches 18 years of age.

Complaints filed with the Guam Commission For Educator Certification must be in writing with the name, address, a statement of the complaint with the facts supporting the allegation, and must be signed by the complainant (parent, educator, superintendent, principal, interested party) and notarized.

- 3.02.1 **Conviction** includes a plea of guilty or a plea of *nolo contendere* accepted by any Court, or a finding or verdict of guilty, regardless of whether an appeal of the conviction has been sought.
- 3.03 **Discipline** shall mean any of the following:
- 3.03.1 Private reprimand
 - 3.03.2 Public reprimand
 - 3.03.3 Suspension
 - 3.03.4 Revocation
 - 3.03.5 Surrender
 - 3.03.6 Supplemental Sanctions
- 3.04 **Dispositions** are the values, commitments, and professional ethics that influence behaviors toward students, families, colleagues and communities and affect student learning, motivation, and development as well as the educator's own professional growth. Dispositions are guided by beliefs and attitudes related to values such as caring, fairness, honesty, responsibility and social justice.
- 3.05 **Educator** is a teacher, administrator or other education personnel who has been issued an Educator Certificate by the Guam Commission For Educator Certification.
- 3.06 **Educator Certificate** refers to the certificate issued by Guam Commission For Educator Certification.
- 3.07 **Eligible Students** are those students 18 years or older who continue to attend school at the high school level.
- 3.08 **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.
Cyberbullying means the use of any electronic communication device to harass, intimidate or bully as defined in the above Paragraph.
- 3.09 **Immoral** conduct is conduct or behavior which is contrary to commonly accepted moral or ethical standards and endangers the health, welfare, safety or education of any student.

- 3.10 **Incompetency** is a pattern of inadequate performance of duties or the lack of ability, legal qualifications or fitness to discharge required duties, and which endangers the health, welfare, safety or education of any student.
- 3.11 **Intemperance** is a loss of self-control or self-restraint, which may result from excessive conduct.
- 3.12 **Mandatory revocations** include the following:
- 3.12.1 Criminal Homicide (As defined in Title 9 Guam Code Annotated)
 - 3.12.2 Criminal Sexual Conduct (As defined in Title 9 Guam Code Annotated)
 - 3.12.3 Aggravated assault (As defined in Title 9 Guam Code Annotated)
 - 3.12.4 Kidnapping (As defined in Title 9 Guam Code Annotated)
 - 3.12.5 Solicitation of Children and Child Pornography (As defined in Title 9 Guam Code Annotated)
 - 3.12.6 Incest (As defined in Title 9 Guam Code Annotated)
 - 3.12.7 Indecent Exposure (As defined in Title 9 Guam Code Annotated)
 - 3.12.8 Stalking (As defined in Title 9 Guam Code Annotated)
 - 3.12.9 Child Abuse (Felony) (As defined in Title 9 Guam Code Annotated)
 - 3.12.10 Robbery (As defined in Title 9 Guam Code Annotated)
 - 3.12.11 Burglary (As defined in Title 9 Guam Code Annotated)
 - 3.12.12 Falsifying Official Records
 - 3.12.13 Forgery (As defined in Title 9 Guam Code Annotated)
 - 3.12.14 Theft (Felony) (As defined in Title 9 Guam Code Annotated)
 - 3.12.15 Fraud (As defined in Title 9 Guam Code Annotated)
 - 3.12.16 A Finding of INSANITY by any Federal or any Local Court
- 3.13 **Moral turpitude** includes the following:
- 3.13.1 That element of personal misconduct in the private and social duties which a person owes to his / her fellow human beings or to society in general, which characterizes the act done as an act of baseness, vileness or depravity, and contrary to accepted and customary rule of right and duty between two human beings and endangers the health, welfare, safety or education of any student.
 - 3.13.2 Conduct done knowingly contrary to justice, honesty or good morals and endangers the health, welfare, safety or education of any student.
 - 3.13.3 Intentional, knowing or reckless conduct causing bodily injury to another or intentional, knowing or reckless conduct which, by physical menace, puts another in fear of imminent serious bodily injury.
- 3.14 **Negligence** is continuing or persistent action or omission in violation of a duty.

- 3.14.1 Duty may be established by law, by promulgated school rules, policies or procedures, by express direction from superiors or by duties of professional responsibility.
- 3.15 **Reinstatement** is restoring the rights, privileges and authority previously suspended or revoked.
- 3.16 **Reprimand** is a written admonishment from the Guam Commission For Educator Certification to the certificate holder for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the licensure file of the educator.
- 3.17 **Revocation** is the permanent invalidation of any educator certification held by the educator.
- 3.18 **Sexual abuse or exploitation** shall mean the employment, use, persuasion, inducement, enticement or coercion of a child or student to engage in or assist any other person to engage in any sexually explicit conduct or a simulation of any sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of any sexually explicit conduct or other forms of sexual exploitation of children or students.
- 3.19 **Sexual misconduct** shall mean any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with a child or student. Such prohibited acts include, but are not limited to, the following:
- 3.19.1 Sexual or romantic invitations;
 - 3.19.2 Dating or soliciting dates;
 - 3.19.3 Engaging in sexualized or romantic dialogue (verbally, emails, or texting);
 - 3.19.4 Making sexually suggestive comments;
 - 3.19.5 Self-disclosure or physical exposure of a sexual, romantic or erotic nature;
or
 - 3.19.6 Any sexual, indecent, romantic or erotic contact with the child or student.
- 3.20 **School-sponsored activity** is any event or activity sponsored by the school or school system which includes but is not limited to athletic events, booster clubs, parent-teacher organizations, or any activity designed to enhance the school curriculum, whether on school-campus or not or on off-island trips.
- 3.21 **Student** is any individual enrolled in a Guam school from pre-kindergarten through grade 12.

- 3.22 **Supplemental sanctions** shall mean private or public sanctions that focus on remediation or restitution, including, but not limited to, fees, prescribed coursework, evaluations, treatment plans, impaired educator programs or other corrective action plans.
- 3.23 **Surrender** shall mean the voluntary termination of a certificate whenever the surrender occurs at any time after the issuance of the certificate.
- 3.24 **Suspension** is the temporary invalidation of any educator certificate for a period of time specified by the Guam Commission For Educator Certification. The term of the certificate will remain the same.
- 3.25 **Warning** is a written communication from the Guam Commission For Educator Certification to the certificate holder that his or her conduct is unethical. The warning cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the certification file of the educator.

4.0 Standards of Professional Conduct

The Standards of Professional Conduct are set forth as follows:

- 4.01 **Standard 1: Legal Compliance** - An educator shall abide by all federal and Guam laws and statutes. Unethical conduct includes but is not limited to the commission or conviction of a felony or of any crime involving moral turpitude; of any other criminal offense involving the manufacture, distribution, trafficking, sale, or possession of a controlled substance, illegal or unauthorized drugs, or any other laws applicable to the profession.
- 4.02 **Standard 2: Conduct with Students** - An educator shall always maintain a professional relationship with all students, both in and outside the classroom. Unethical conduct includes but is not limited to:
- 4.02.1 Committing any act of child abuse;
- 4.02.2 Committing any act of child endangerment;
- 4.02.3 Committing any sexual act with a student or soliciting such from a student;
- 4.02.4 Engaging in or permitting harassment of or misconduct toward a student that would violate a federal or Guam law;
- 4.02.5 Soliciting, encouraging, or consummating an inappropriate written, verbal, electronic, or physical relationship with a student;

- 4.02.6 Furnishing tobacco, alcohol, or illegal/unauthorized drugs to any student;
or
- 4.02.7 Failing to prevent the use of alcohol or illegal or unauthorized drugs by students who are under the educator's supervision, including but not limited to the educator's residence or any other setting.
- 4.03 **Standard 3: Alcohol or Drugs** - An educator shall refrain from the use of alcohol or illegal or unauthorized drugs during the course of professional practice. Unethical conduct includes but is not limited to:
- 4.03.1 Being on school premises or at a school-related activity while under the influence of, possessing, using, or consuming illegal or unauthorized drugs; and
- 4.03.2 Being on school premises or at a school-related activity involving students while under the influence of, possessing, or consuming alcohol. A school-related activity includes, but is not limited to, any activity sponsored by the school or school system (booster clubs, parent-teacher organizations, or any activity designed to enhance the school curriculum, off-island trips).
- 4.04 **Standard 4: Honesty** - An educator shall exemplify honesty and integrity in the course of professional practice. Unethical conduct includes but is not limited to, falsifying, misrepresenting or intentionally omitting:
- 4.04.1 Professional qualifications, criminal history, college or staff development credit and/or degrees, academic award, and employment history;
- 4.04.2 Information submitted to federal, the Guam Department of Education, DODEA, other governmental agencies and Guam private schools;
- 4.04.3 Information regarding the evaluation of students and/or personnel;
- 4.04.4 Reasons for absences or leaves;
- 4.04.5 Information submitted in the course of an official inquiry/investigation; and,
- 4.04.6 Information submitted in the course of professional practice.
- 4.05 **Standard 5: Public Funds and Property** - An educator entrusted with public funds and property shall honor that trust with a high level of honesty, accuracy, and responsibility. Unethical conduct includes but is not limited to:
- 4.05.1 Misusing public or school-related funds;
- 4.05.2 Failing to account for funds collected from students or parents;
- 4.05.3 Submitting fraudulent requests or documentation for reimbursement of expenses or for pay (including fraudulent or purchased degrees, documents, or coursework);

- 4.05.4 Co-mingling public or school-related funds with personal funds or checking accounts; and
- 4.05.5 Using school property without the approval of school authorities or authorized designee.
- 4.06 **Standard 6: Remunerative Conduct** - An educator shall maintain integrity with students, colleagues, parents, patrons, or businesses when accepting gifts, gratuities, favors, and additional compensation. Unethical conduct includes but is not limited to:
- 4.06.1 Soliciting students or parents of students to purchase equipment, supplies, or services from the educator or to participate in activities that financially benefit the educator unless approved by school authorities or authorized designee;
- 4.06.2 Accepting gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest;
- 4.06.3 Tutoring students assigned to the educator for remuneration unless approved by the school authority or authorized designee; and
- 4.06.4 Coaching, instructing, promoting athletic camps, summer leagues, that involve students in an educator's school system and from whom the educator receives remuneration unless approved by school authorities or authorized designee.
- 4.06.5 Conduct prohibited by Title 4 G.C.A. §15201, §15203, §15204, §15205, §15206.
- 4.07 **Standard 7: Confidential Information** - An educator shall comply with Guam and federal laws and school board policies relating to the confidentiality of student and personnel records, standardized test material and other information. Unethical conduct includes but is not limited to:
- 4.07.1 Sharing of confidential information concerning student academic and disciplinary records, health and medical information, family status and/or income, and assessment/testing results unless disclosure is required or permitted by law;
- 4.07.2 Sharing of confidential information restricted by Guam or federal law;
- 4.07.3 Violation of confidentiality agreements related to standardized testing including copying or teaching identified test items, publishing or distributing test items or answers, discussing test items, violating local school system or directions for the use of tests or test items; and

- 4.07.4 Violation of other confidentiality agreements required by Guam.
- 4.08 **Standard 8: Required Reports** - An educator shall file reports of a breach of one or more of the Standards of Professional Conduct for Educators, child abuse or any other required report. Unethical conduct includes but is not limited to:
- 4.08.1 Failure to report all requested information on documents required by the Commission when applying for or renewing any certificate with the Commission;
- 4.08.2 Failure to make a required report of a violation of one or more Standards of Professional Conduct for educators of which they have personal knowledge as soon as possible but no later than ninety (90) days from the date the educator became aware of an alleged breach unless the law or local procedures require reporting sooner; and
- 4.08.3 Failure to make a required report of any violation of Guam or federal law as soon as possible but no later than ninety (90) days from the date the educator became aware of an alleged breach unless the law or local procedures require reporting sooner. These reports include but are not limited to: murder; voluntary manslaughter; aggravated assault; aggravated battery; kidnapping; any sexual offense; any sexual exploitation of a minor; any offense involving a controlled substance, illegal, or unauthorized drugs; and any abuse of a student if an educator has reasonable cause to believe that a student has been abused.
- 4.09 **Standard 9: Professional Conduct** - An educator shall demonstrate conduct that follows generally recognized professional standards and preserves the dignity and integrity of the teaching profession. Unethical conduct includes but is not limited to:
- 4.09.1 Any behavior or conduct detrimental to the health, welfare, discipline, or morals of students;
- 4.09.2 Any conduct that impairs and/or diminishes the certificate holder's ability to function professionally in his or her employment position;
- 4.09.3 Knowingly and intentionally denying or impeding a colleague in the exercise or enjoyment of a professional right or privilege in being an educator;
- 4.09.4 Knowingly and intentionally distorting evaluations of colleagues;
- 4.09.5 Harassing, sexually harassing, intimidating, bullying and cyber-bullying a fellow employee;
- 4.09.6 Using coercive means or promising special treatment to influence professional decisions of colleagues; or
- 4.09.7 Threatening, coercing, or discriminating against a colleague who in good faith reports or discloses to a governing agency actual or suspected violations of law, regulations or standards.

4.10 **Standard 10: Testing** - An educator shall administer Guam mandated assessments fairly and ethically. Unethical conduct includes but is not limited to:

4.10.1 Committing any act that breaches Test Security; and

4.10.2. Compromising the integrity of the assessment.

5.0 Reporting

5.01 Educators should be aware of legal requirements and local policies and procedures for reporting unethical conduct. Complaints filed with the Guam Commission For Educator Certification must be in writing with the name, address, a statement of the complaint with the facts supporting the allegation, and must be signed by the complainant (parent, educator, superintendent, principal, interested party) and notarized.

5.02 The Commission notifies school and appropriate Guam officials of all disciplinary actions.

5.03 The Commission will make all decisions of final disciplinary actions imposing discipline, other than a private reprimand, available to the public on-line through the GCEC website. Suspensions and revocations are reported to national officials, including the NASDTEC Clearinghouse.

5.04 Reports will be accepted when this rules and regulations are enacted into law. Reports for prior incidences will not be addressed.

6.0 Disciplinary Action

The Guam Commission For Educator Certification; authority to discipline:

6.01 The Guam Commission For Educator Commission may suspend the educator certificate of any person for up to 5 years, after which time the certificate may be reinstated; may revoke the educator certificate of any person for up to 10 years, after which time the certificate holder must reapply for certification; may revoke permanently the educator certificate; or may impose any other penalty provided by law, if the person:

6.01.1 Obtained or attempted to obtain an educator certificate by fraudulent means.

6.01.2 Knowingly failed to report actual or suspected child abuse or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student.

- 6.01.3 Has proved to be incompetent to teach or to perform duties as an employee of the school or to teach in or to operate a private school.
 - 6.01.4 Has been guilty of gross immorality or an act involving moral turpitude.
 - 6.01.5 Has had an educator certificate sanctioned by revocation, suspension, or surrender in another state/jurisdiction.
 - 6.01.6 Has been convicted of a Misdemeanor or more serious crime.
 - 6.01.7 Upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the school.
 - 6.01.8 Has violated the Standards of Professional Conduct for the Education Profession prescribed by GCEC's Code of Ethics.
 - 6.01.9 Has otherwise violated the provisions of law, the penalty for which is the revocation of the educator certificate.
 - 6.01.10 Has violated any GCEC order.
 - 6.01.11 Has been the subject of a court order or plea agreement in any jurisdiction which requires the certificate holder to surrender or otherwise relinquish his or her educator's certificate. A surrender or relinquishment shall be for permanent revocation of the certificate.
- 6.02. The plea of guilty or *nolo contendere* in any court, the decision of guilty by any court, the forfeiture by the teaching certificate holder of a bond in any court of law, or the written acknowledgment, duly witnessed-of offenses listed below to the school superintendent or a private school principal shall be prima facie proof of grounds for revocation of the certificate as listed below in the absence of proof by the certificate holder that the plea of guilty, forfeiture of bond, or admission of guilt was caused by threats, coercion, or fraudulent means.
- 6.02.1. Obtained or attempted to obtain an educator certificate by fraudulent means.
 - 6.02.2 Knowingly failed to report actual or suspected child abuse or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student.
 - 6.02.3 Has proved to be incompetent to teach or to perform duties as an employee of the school or to teach in or to operate a private school.
 - 6.02.4 Has been guilty of gross immorality or an act involving moral turpitude.

- 6.02.5 Has had an educator certificate sanctioned by revocation, suspension, or surrender in another state/jurisdiction.
 - 6.02.6 Has been convicted of a Misdemeanor or more serious crime.
 - 6.02.7 Upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the school.
 - 6.02.8 Has violated the Standards of Professional Conduct for the Education Profession prescribed by GCEC's Code of Ethics.
 - 6.02.9 Has otherwise violated the provisions of law, the penalty for which is the revocation of the educator certificate.
 - 6.02.10 Has violated any GCEC order.
 - 6.02.11 Has been the subject of a court order or plea agreement in any jurisdiction which requires the certificate holder to surrender or otherwise relinquish his or her educator's certificate. A surrender or relinquishment shall be for permanent revocation of the certificate.
- 6.03 The revocation by the Guam Commission For Educator Certification of an educator certificate of any person automatically revokes any and all Guam educator certificates held by that person.
- 6.03.1 An educator certificate that has been suspended under this section is not automatically reinstated at the end of the suspension period. If the certificate expired during the period of suspension, the holder of the former certificate may secure a new certificate by making application and by meeting the certification requirements of GCEC at the time of the application for the new certificate.
 - 6.03.2 A person whose educator certificate has been revoked under this section may apply for a new certificate at the expiration of that period of ineligibility fixed by GCEC by meeting the current certification requirements at the time of the application for the new certificate.
- 6.04 An individual whose license has been revoked or suspended shall not serve as a volunteer, a coach, or be employed as an educator, paraprofessional, aide, substitute teacher, or in any other position directly related to student supervision, during the period of his or her revocation or suspension.
- 6.05 The reinstatement of an educator certificate shall comply with Appendix B.
- 6.06 The GDOE, Catholic School, and DODEA superintendents, or any Guam school principal are encouraged to report to GCEC the name of any certified educator:

- 6.06.1 Who has been convicted of, or who has pled *nolo contendere* to, a misdemeanor, felony, or any other criminal charge, other than a minor traffic infraction;
- 6.06.2 Who that official has reason to believe has committed or is found to have committed any act which would be a ground for revocation or suspension;
- 6.06.3 Who has been dismissed or severed from employment because of conduct involving any immoral, unnatural, or lascivious act.
- 6.07 Any certified administrator / principal who knowingly fails to report to GCEC a teacher, paraprofessional, or other educator who has been accused of misconduct for unethical behavior will forfeit his / her administration certification from GCEC for a period to time determined by the Commission based on the severity of the unethical behavior.

7.0 Procedures for the Investigative Process and Final Determination of Alleged Ethics Violations and Appeals

- 7.01 In considering and investigating complaints brought before it, GCEC shall follow the procedures set forth in *Appendix A* to these rules, which are hereby fully incorporated into these rules as if fully set forth herein.
- 7.02 In the case of an appeal, GCEC shall follow the procedures set forth in 5 GCA Ch. 9 Article 2 related to hearings.

8.0 Power of Subpoena

- 8.01 In all investigations and disciplinary proceedings, the Commission is authorized to issue subpoenas as provided for by law to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidentiary material. Petitions for the issuance of subpoenas shall be filed with the hearing officer, if one has been appointed.

9.0 Severability Clause

- 9.01 If any provision of this rules and regulations or the application of any provision to any person or circumstance, is held invalid or determined to be contrary to federal or other laws governing the certification educators, the remainder of the rules and regulations shall be given effect without the invalid provision or application.

**Procedures for the Investigative Process and
Final Determination of Alleged Ethics Violations**

1. Complaint Received by GCEC:

- a. A written *complaint* will be deemed a request to investigate, when filed with the Secretary of the Commission (Executive Director). All complaints made shall include the following: the name and address of the complainant and the accused, and a statement of the complaint with facts supporting the allegation.
- b. The Ethics Review Sub-Committee (hereinafter referred to as the "Sub-Committee"), composed of voting members of the Commission as identified by the Chairperson, determines whether to investigate, within five (5) working days upon receipt of complaint by the Executive Director.
- c. When appropriate, GCEC will provide a copy of the complaint to the school administrator where the educator is employed.
- d. A letter to complainant about disposition of complaint may be sent via (1) certified mail, return receipt requested, (2) E-Mail (PDF of written letter) from the Executive Director or his/her designee with a return e-mail acknowledging receipt, (3) personal delivery by the Executive Director or his/her designee or (4) personal delivery by a licensed process server.
- e. A letter may be sent to appropriate school administrator (at the discretion of the Executive Director), if necessary, about disposition of complaint via (1) certified mail, return receipt requested, (2) E-Mail (PDF of written letter) from the Executive Director or his/her designee with a return e-mail acknowledging receipt, (3) personal delivery by the Executive Director or his/her designee or (4) personal delivery by a licensed process server.
- f. The following will automatically go to the Ethics Review Sub-committee to open an investigation:
 - i. An affirmative answer concerning criminal or ethical violations on an application.
 - ii. Confirmation from the Guam Police Department or the FBI, regarding criminal convictions.

2. Investigation Initiated by GCEC

- a. If the Ethics Review Subcommittee determines that an investigation is warranted, a letter will be sent to the educator requesting additional information/statement. This letter will be sent via (1) certified mail, return receipt requested, (2) E-Mail (PDF of written letter) from the Executive Director or his/her designee with a return e-mail acknowledging receipt, (3) personal delivery by the Executive Director or his/her designee or (4) personal delivery by a licensed process server. This letter will notify the educator of the hearing date which will be at least sixty (60) calendar days from the date of receipt.
- b. An investigation will be conducted by the Ethics Officer of the Ethics Review Subcommittee's determination to proceed.
- c. An investigative summary will be sent to the Ethics Review Sub-Committee within seven (7) calendars of completion of investigation.

3. Proposed Action or Hearing

- a. "Notice of Proposed Action Letter" notifying the educator of the proposed GCEC action and the reason for the proposed action (which will be based on the investigation) will be sent within twenty-one (21) calendar days of hearing date.
- b. The educator may consent to the proposed action or may avail themselves of the scheduled hearing before the Ethics Review Sub-Committee of GCEC.
- c. If an educator consents to the proposed action, they must do so in writing, transmitted to the GCEC (as indicated in the "Notice of Proposed Action Letter"), within ten (10) calendar days of receipt of the "Notice of Proposed Action Letter."
- d. If an educator does not attend the scheduled hearing, the proposed action becomes a final decision confirmed by GCEC.

4. Evidentiary Hearing Procedures of the GCEC Ethics Review Sub-Committee

- a. The educator shall be notified in writing of the deadline by which the educator must submit items to the Ethics Review Sub-committee for consideration. The educator shall be notified via (1) certified mail, return receipt requested, (2) E-Mail (PDF of written letter) from the Executive Director or his/her designee with a return e-mail acknowledging receipt, (3) personal delivery by the Executive Director or his/her designee or (4) personal delivery by a licensed process server.
- b. The GCEC Ethics Officer and the educator (or his/her attorney) shall present their cases to the Ethics Review Sub-committee.
- c. Each party will have the opportunity, should it so choose, to make an opening statement. The statement shall be no longer than fifteen (15) minutes in length. The

chairperson of the Ethics Review Sub-committee may grant additional time to either or both parties, if necessary.

- d. Any written documents, photographs or any other items of evidence may be presented to the Ethics Review Sub-committee with the permission of the Chairperson. The items of evidence shall be marked as either "GCEC Exhibit Number 1(et seq.)" or "Educator's Exhibit Number 1 (et seq.)." After an item of evidence has been allowed to be presented to the hearing Ethics Review Sub-committee by the Chairperson, the introducing party shall give copies to all Ethics Review Sub-committee members and one (1) copy for GCEC's records.
- e. After one party has questioned a witness, the other party shall have the same opportunity.
- f. Members of the Ethics Review Sub-Committee shall also have the opportunity to ask questions of any witness or any party.
- g. While the scope of each party's presentation ultimately lies within the chairperson's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.
- h. After the educator has made a closing statement, which shall be no longer than fifteen (15) minutes, or waived the opportunity for the same, the GCEC Ethics Officer shall have up to fifteen (15) minutes to make his/her closing statement, if desired. The chairperson of the Ethics Review Sub-committee may grant additional time to either or both parties, if necessary.
- i. The entire Evidentiary Hearing shall not exceed eight (8) hours. The chairperson of the Ethics Review Sub-committee may grant additional time, if necessary.
- j. After closing statements have been made, or the opportunity to make them has been waived, the Ethics Review Sub-Committee may orally announce its decision. Alternatively, the Ethics Review Sub-Committee may take the case under advisement and render a written decision at a later time.
- k. A written decision reflecting the hearing Ethics Review Sub-committee's final decision and recommendation shall be promptly prepared for the signature of the Ethics Review Sub-committee chair. A copy of the decision and recommendation shall be timely transmitted to the educator through a certified letter, and the GCEC chairperson.
- l. The educator shall have fifteen (15) calendar days from the receipt of the decision and recommendation to appeal the Ethics Review Sub-committee's decision to the GCEC chair. Should the educator not file an appeal within the previously-referenced time period, the decision of the Ethics Review Sub-committee shall become non-appealable.

Appendix B

Procedures for the Reinstatement of Educator Certificates**I. Guidelines for Consideration of Certification Restoration Applications**

Before an application is considered, the applicant must prove that the cause no longer exists. Restoration of a suspended or revoked certificate is considered on a case by case basis. The burden of proof rests with the applicant. To show that the "cause no longer exists," an applicant must show why certification should be restored despite the misconduct that resulted in the disciplinary action. An applicant must provide evidence of rehabilitation and fitness to perform the duties authorized by the certificate sought.

GCEC may consider the following in reviewing restoration applications

- a. Likelihood of present harm or potential for continuing harm to students, parents of students or school personnel
- b. Details of the offense(s) which led to the disciplinary action:
 - i. The relationship between the offense and the duties and responsibilities of the education profession.
 - ii. Likelihood of recurrence as shown, for example, by lack of remorse or lack of rehabilitative motivation or potential.
- c. Attempted concealment of misconduct
- d. Prior misconduct of a similar or related nature
- e. Evidence of rehabilitation relevant to the conduct that resulted in disciplinary action, such as:
 - i. Participation in counseling, self-help support groups, community service
 - ii. Gainful employment outside of the education field subsequent to the conduct; and
 - iii. Family and community support as shown, for example, through affidavits or letters of character from leaders of organizations, including religious groups.
- f. Fitness for practice as an educator:
 - i. Continuing education since the discipline was imposed;
 - ii. Opportunities of employment for educational positions-
- g. Any other relevant factors.

2. Reinstatement of Suspended Certificates

- a. Six (6) weeks prior to the expiration of the suspension, the educator may apply to have a suspended educator certificate reinstated. However, no reinstatement will be effective until expiration of the suspension period.
- b. An application for reinstatement of a suspended educator certificate must include:
 - i. An application form for reinstatement
 - ii. A notarized affidavit from the applicant, together with requisite and additional documentation sufficient to establish convincingly that all terms and conditions of the suspension have been met satisfactorily and fulfilled.
- c. The Ethics Officer shall review the application and evidence and then make a recommendation to the Executive Director.
- d. If the Executive Director is satisfied that the terms and conditions have been met successfully, the Executive Director will recommend reinstatement of the suspended certificate to the Commission, which will make a decision at the next meeting.
- e. If the Executive Director is not satisfied the terms and conditions have been met, the Director will make a recommendation to the Commission in executive session to deny reinstatement of the license.
- f. Before taking action on the Executive Director's recommendation, the Commission may schedule a meeting between the educator and the Commission.
- g. If the Commission denies the reinstatement, the Executive Director will provide a copy of the denial to the educator and notice of right to a hearing.
- h. If a suspension of a certificate occurs, the reinstatement must be considered under the current educator requirements.

3. Reinstatement of Revoked Certificate

- a. Any revocation for conviction for crimes listed in 3.12 is permanent and the educator certificate is not eligible for reinstatement.
- b. Application for reinstatement of an educator certificate revoked for any reason other than those cited in 3.12 may be submitted at any time after the period of revocation has expired.
- c. The burden will be on the educator to establish fitness for reinstatement.
- d. The application for reinstatement must include:
 - i. An application form for reinstatement

- ii. A personal notarized affidavit attesting that:
 - 1. All the conditions of the order for revocation have been met
 - 2. That the educator has not violated any laws on Guam, including ethical violations related to certification
- iii. A police clearance and court clearance.
- e. Any additional documentation, sufficient to establish convincingly that the educator possesses all of the qualifications required for reinstatement of certification. Letters of recommendations from educator colleagues are insufficient alone to establish fitness for reinstatement of certification following a revocation. The educator must provide evidence regarding what proactive steps have been taken to ensure to the Commission that the conduct that resulted in the revocation is highly unlikely to occur again.
- f. Following review of the application for reinstatement pursuant to this section, the Ethics Officer will make a recommendation to the Executive Director.
- g. The Executive Director will make a recommendation to the Commission regarding whether to approve or deny the application.
- h. All decisions to reinstate a revoked certificate will be made by the Commission.
- i. It is entirely at the Commission's discretion whether an educator may meet with the Commission under these circumstances.
- j. This subsection does not grant a right to any applicant to appear before the Commission prior to the Commission's consideration of the application for reinstatement following a revocation.
- k. If the Commission denies the application for reinstatement, the Executive Director will provide a copy of the recommendation of denial to the educator and a notice of right to a hearing.

4. Surrender of Educator Certification

- a. An educator may voluntarily surrender a Guam Educator Certificate prior to its expiration date if the Commission finds that such action is in the best interest of the public.
- b. The surrender of a certificate will not stay an investigation or possible future commission action against the educator.

- c. Where the Commission has grounds for disciplinary action against an educator and the educator offers to surrender the teaching certificate, the Executive Director shall require the educator to stipulate to pertinent facts and to the revocation or suspension of the certificate as a condition of the Commission's acceptance of the surrender of the certificate. All stipulated settlement agreements are subject to the Commission's approval.
- d. If the Commission and the educator cannot agree on a stipulation, the Commission will proceed with disciplinary proceedings.



KUMISION SETTEFIKASION PARA I MANMANIDUKA
GUAM COMMISSION FOR EDUCATOR CERTIFICATION



Resolution No. 2014-01

RELATIVE TO APPROVING AND ADOPTING THE RULES AND REGULATIONS GOVERNING THE STANDARDS OF PROFESSIONAL CONDUCT FOR GUAM EDUCATORS AND APPROVE AMENDMENTS TO CHAPTER 8, TITLE 5A, GUAM ADMINISTRATIVE RULES AND REGULATIONS.

BE IT RESOLVED BY THE GCEC COMMISSION MEMBERS:

WHEREAS, Subsection (f) of Section 27008 of Division 3, Chapter 27 of 17 Guam Code Annotated mandated: *(f) develop and implement policies that clearly define the respective responsibilities of the Commission and the Commission's staff;* and

WHEREAS, Public Law 31-50 approved the Administrative Rules and Regulations Relative to the Guam Commission For Educator Certification on May 16, 2011; and

WHEREAS, on August 7, 2014, the Guam Commission For Educator Certification conducted a public hearing pursuant to the Administrative Adjudication Act to add the Proposed Rules and Regulations Governing the Standards of Professional Conduct for Guam Educators, and, Proposed Amendments to Existing Rules and Regulations, 5A GAR Education, Chap. 8 Guam Commission For Educator Certification (PL 31-50); and

WHEREAS, the new Rules and Regulations and Proposed Amendments to the Existing Rules and Regulations were promulgated as a result of the public hearing; and

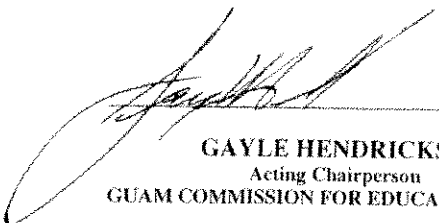
WHEREAS, the new Rules and Regulations and the Proposed Amendments to the Existing Rules and Regulations were transmitted to the Attorney General's Office, to the Department of Administration and the Guam Compiler of Law for their comments;

WHEREAS, favorable responses on the new Rules and Regulations and the Proposed Amendments to the Existing Rules and Regulations were received from the Attorney General's Office, the Department of Administration and the Guam Compiler of Law; now, therefore, be it


RESOLVED, the Guam Commission For Educator Certification approves and adopts the new Rules and Regulations Governing the Standards of Professional Conduct for Guam Educators and the Proposed Amendments to the Existing Rules and Regulations; and be it further

RESOLVED, the Chairperson certify to and the Secretary attest the adoption hereof and that a copy of this resolution is transmitted to the Legislative Secretary of the 32nd Guam Legislature.

PASSED AND ADOPTED UNANIMOUSLY BY THE GUAM
COMMISSION FOR EDUCATOR CERTIFICATION
THIS 14th DAY OF OCTOBER, 2014.



GAYLE HENDRICKS, Ed.D.
Acting Chairperson
GUAM COMMISSION FOR EDUCATOR CERTIFICATION



LEA SANTOS
Secretary
GUAM COMMISSION FOR EDUCATOR CERTIFICATION