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JON J. P. FERNANDEZ
Superintendent of Education

March 14, 2018

GL# 34-16-1642

Honorable Benjamin J. F. Cruz
Speaker
Chairperson: Committee on Appropriations and Adjudication
34th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagatna, Guam 96910

Speaker Benjamin J.F. Cruz

MAR 14 2018
Time: 12:45 AM PM File No. 34-16
Received By:

Dear Speaker Cruz:

I write to seek immediate action and resolution to the budgetary situation impacting the Guam Department of Education (GDOE). As you are aware, GDOE is mandated to absorb the impact of at least $19.6 million in budget reductions, due to the effects of the federal Tax Cuts & Jobs Act of 2017 on government of Guam revenues. In early February, we implemented a series of reductions amounting to an estimated $12.1 million in savings, mostly by freezing hiring in the central office and administrator positions, delaying projects, reducing contracts and utilizing funding earmarked for libraries, textbooks, sports facilities, and other needs to support core operations. Earlier this week, we informed our stakeholders that the next steps would include a department-wide hiring freeze on all vacancies, significant reductions in the availability of on-call substitutes, freezing of salary increments, shutdown of facilities after instructional hours and over the summer, delay of the 2018-2019 school year until October 1, and a 32-hour work week beginning in early July. Last night, the Guam Education Board (GEB) endorsed the Superintendent's recommendations and authorized the initiation of the furlough as well as the planning for a delayed school year start.

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However, It is my fear that the steps we are taking may put us in jeopardy of violating Public Law 28-45. As you know, Public Law 28-45, "Every Child is Entitled to an Adequate Public Education Act," sets forth 14 points that establish minimum requirements for the public education system on Guam. They require the following:

1. A certified teacher for every class in a ratio established by relevant collective bargaining agreements;
2. Certified professional administrators;
3. Certified guidance counselors;
4. Certified school health counselors;
5. Certified allied health professionals;
6. Air conditioned or properly ventilated classrooms in which the sensible air temperature is no greater than 78 degrees Fahrenheit;
7. Potable water sufficient to provide each student a daily ration of drinking and washing water;
8. A reliable supply of electricity;

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9. Proper sanitation to include flushable toilets, clean restrooms, dining areas, and classrooms;
10. Adopted and required textbooks and work books issued to each public school student for the classes in which he or she is enrolled;
11. Libraries, which meet the standards of the American Association of School Librarians, at each school, operated by certified librarians;
12. A healthful, safe, sanitary learning environment;
13. At least one hundred eighty (180) instructional days each school year with school years ending no later than thirty days following the end of the calendared school year; and
14. Regular, timely school bus transportation to and from the school for his attendance area as established by 17 GCA Section 6102 for every child in accordance with policies adopted by the Education Policy Board.

The law sets further requirements on the Bureau of Budget Management Research, Department of Administration, the Guam Legislature, and the Guam Department of Education in fulfilling these mandates. It further establishes legal standing for a public school student to sue the government of Guam for injunctive relief in order to ensure the enforcement and fulfillment of the law. In my specific role as Superintendent, the law requires as well that I perform "duties as may be required by public law to provide an adequate public educational system."

In review of these duties and in light of our annual requests to the Guam Legislature for a budget to meet the mandates of Public Law 28-45, I believe we have done our best to work within our annual appropriation to meet the law's mandates and fulfill our department's mission to educate our 31,000 students each year. However, given the budget reductions that we are being forced to take and the inaction to date on providing revenue relief to the department, our ability to meet the requirements of Public Law 28-45 is being threatened.

Public Law 28-45 clearly establishes, in Section 15, the basis for an action to be filed against the government of Guam and specifies that (emphasis added) *"the lack of funding or failure to release allotments shall not constitute a defense to claims under this Section unless the named respondent, before commencement of the claim under this Section, files an action to release such funding against the responsible party withhold such funds or allotments."* I believe that this requires that, in my role, I apprise the Legislature and the Governor – to include all relevant agencies – of the situation that the department faces in meeting the mandates set forth in law and request your assistance in providing immediate relief.

Public Law 28-45, authored by former Senator Robert Klitzkie, received broad support from members of the Guam Legislature and includes among its sponsors and co-sponsors many of the same elected officials to whom the department continues to express our requests for immediate relief to the current dire financial situation impacting our schools and classrooms. This list of supporters includes Governor Eddie Baza Calvo, Lieutenant Governor Ray Tenorio, Speaker Benjamin J.F. Cruz, and Senator Frank B. Aguon Jr. In addition to former Senator Klitzkie, the list of supporters also includes former Senator Larry Kasperbauer, former Senator Speaker Mark Forbes, former Senator Joanne Brown, former Senator Jesse Lujan, former Speaker Tony Unpingco, former Senator and Lieutenant Governor Mike Cruz, former Senator Adolpho Palacios, former Senator Lou Leon Guerrero, former Senator Rory Respicio, and former Senator and Speaker Judith Won Pat. With such broad support for establishing these mandates,

creating a right for students to sue the government, and defining the duties and responsibilities for departments and officers to follow this law, it is my expectation that the Governor and Legislature can work together to address my concern and ensure that we support our public schools. We need an immediate solution to protect the department from further reductions and avoid the need for any public school student to take action against the government to get an adequate eduation.

In summary and with great urgency, I am requesting the Legislature and the Governor provide immediate relief to the Guam Department of Education to alleviate further budget cuts to our public school system, avoid disruption of our school year and activities, support our efforts to improve our facilities and services for stakeholders, and avoid the furloughing of GDOE employees.

Senseramente,

JON J.P. FERNANDEZ

cc: Governor of Guam
Chairman and Members, GEB
Senators, 34th Guam Legislature
Director, BBMR
Director, DOA