DEPARTMENT OF EDUCATION
OFFICE OF THE SUPERINTENDENT

www.gdoe.net
500 Mariner Road, Barrigada Guam 96913
Telephone: (671)475-0457 or 300-1547/1536•Fax: (671)472-5001
Email: jonfernandez@gdoe.net

JON J. P. FERNANDEZ
Superintendent of Education

June 27, 2018

The Honorable Eddie Baza Calvo
Governor of Guam
513 West Marine Corps Drive
Ricardo J. Bordallo Complex
Hagåtña, Guam 96910

GCA 34-16-2022
Speaker Benjamin J.F. Cruz

JUN 27 2018
Time: 10:16 [ ] AM [ ] PM File No.
Received By:

Honorable Benjamin J. F. Cruz
Speaker and Chairman
Committee on Appropriations and Adjudication
Thirty-Fourth Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Honorable Joe S. San Agustin
Chairman
Committee on Education, Finance and Taxation
Thirty-Fourth Guam Legislature
361 S. Marine Corps Drive
Tamuning, Guam 96913

2018 JUN 27 AM 10:49

Re: GEB Resolution 2018-11 – Resolution to Request that the 34th Guam Legislature Separate the Budgets of the Guam Department of Education from the Charter Schools and Remove the Requirement for the Guam Department of Education to Validate Charter School Invoices or, in the Alternative, Provide the Guam Education Board Approval Authority and Oversight over Charter Schools and the Guam Academy Charter School Council

Dear Governor Calvo, Speaker Cruz and Senator San Agustin:

Håfa Adai! I am transmitting GEB Resolution 2018-11, approved June 27, 2018. The resolution details the GEB's request to the 34th Guam Legislature regarding the Charter Schools and the Guam Academy Charter School Council. Please feel free to disseminate copies of the resolution to your constituents or stakeholders.

Senseramente,

JON J. P. FERNANDEZ

Attachment

cc: Chairwoman, Guam Academy Charter School Council
Senator Will Castro

2022

GUAM EDUCATION BOARD
RESOLUTION NUMBER 2018-11

Introduced by: Guam Education Board Members

RESOLUTION TO REQUEST THAT THE 34TH GUAM LEGISLATURE SEPARATE THE BUDGETS OF THE GUAM DEPARTMENT OF EDUCATION FROM THE CHARTER SCHOOLS AND REMOVE THE REQUIREMENT FOR THE GUAM DEPARTMENT OF EDUCATION TO VALIDATE CHARTER SCHOOL INVOICES OR, IN THE ALTERNATIVE, PROVIDE THE GUAM EDUCATION BOARD APPROVAL AUTHORITY AND OVERSIGHT OVER CHARTER SCHOOLS AND THE GUAM ACADEMY CHARTER SCHOOL COUNCIL

WHEREAS, on September 24, 2013, the Guam Education Board ("GEB") passed Resolution 2013-07 adopting the spending priorities of the Guam Department of Education ("GDOE") and requesting that the Superintendent of Education ("Superintendent") work with the Guam Legislature to explore a funding mechanism for the Guahan Academy Charter School ("GACS") that does not adversely impact funding for GDOE; and

WHEREAS, on January 29, 2014, the GEB passed Resolution 2014-02 relative to Fiscal Year 2015 Appropriation for the Department of Education stating that charter schools are not under the purview of the GEB and should, therefore, operate separately and apart from GDOE, and that appropriations for the charter schools should be separate and apart from the GDOE budget; and

WHEREAS, on January 27, 2015, and again on January 22, 2016, the GEB passed Resolutions 2015-01 and 2016-01 relative to the department's budget request in which the GEB continued to request that annual budgets for the charter schools be appropriated outside of the GDOE budget and that GDOE be relieved of tasks related to reviewing or approving charter school invoices; and

WHEREAS, on July 13, 2016, GEB Acting Chairwoman Rosie Tainatongo joined Guam Academy Charter School Council ("GACSC") Chairwoman Rosa Palomo in requesting of Senator Nerissa Underwood, Chair of the Committee on Education, that the budgets for GDOE and the charter schools be separately submitted to the Guam Legislature, to reflect the autonomy and independence of the two public school systems; and

WHEREAS, on August 31, 2017, at a meeting of the GACSC, it was reported that GACS had enrolled 1,015 students, in excess of its legislated cap of 740 students, without sufficient government funding for all students; and

WHEREAS, on September 5, 2017, GACS opened its doors to students at a newly renovated site in Tiyan for its middle and high school students, only to have the school shut down due to a failure to obtain a building occupancy permit, receiving a notice of violation and a notice to vacate from the Department of Public Works, eventually opening over a week later; and

WHEREAS, on October 11, 2017, the Pacific Daily News reported that the Guam Department of Education experienced a 3.1 percent decline in enrollment, or 949 students, over a three-year period, coinciding with the opening of two charter schools, yet funding from the department was transferred away disproportionately to support 1,240 charter school students,

equating to $8,493 per student for each student that was no longer in a GDOE school, indicating an unfair subsidy taken from GDOE to support private school students or off-island students that joined a charter; and

WHEREAS, on October 12, 2017, the Superintendent submitted a letter and report to the GACS Board of Trustess Chairwoman and the GACSC outlining a number of deficiencies identified by GDOE's Internal Audit Office including GACS's requests for funding that exceeded their annual appropriation in FY 2017, illegal use of funds to support capital improvement projects, enrollment of students above the legislated enrollment cap, lack of procurement documentation, among other things; and

WHEREAS, in that same letter and report, the Superintendent offered seven recommendations to the GACSC to address these deficiencies prior to considering the renewal of GACS's charter, including conducting a review to determine government of Guam liability for charter school debt obligations, requiring charter schools to submit documentation of payment to vendors following validation of invoices, and a prohibition on charter schools increasing enrollment prior to securing funds for enrolled students; and

WHEREAS, on November 9, 2017, the Superintendent recommended that the GACSC consider putting GACS on probation to compel GACS to address the deficiencies identified in its operations and financial management; and

WHEREAS, on December 18, 2017, both the Guam Education Board Chairman and the Superintendent testified before the Committee on Appropriations in opposition to Bill 191-34, which would have raised the cap currently set on the number of non-converted charter schools, tax the resources of GDOE to cover the operations and management of the Guam Academy Charter School Council over which it has not authority or control, and continue to fund the budgets of charter schools from the GDOE budget; and

WHEREAS, in that same testimony, the Superintendent proposed instead that the Guam Legislature fully remove charter schools from GDOE's budget and expenditure review or, in the alternative, give the Guam Education Board full authority either over the Guam Academy Charter School Council or directly over the charter schools themselves, reflecting similar authority provided to other state boards of education; and

WHEREAS, on January 26, 2018, the GEB passed Resolution 2018-02 relative to the Fiscal Year 2019 budget request and included, once again, a request to separate the budgets of the charter schools from the GDOE budget and further requested that any budgetary reductions of local appropriations or related cash allotments be shared and apportioned to charter schools; and

WHEREAS, on or around February 15, 2018, after being threatened with eviction by their Tiyan landlord over issues of non-payment, GACS reached an agreement to vacate its recently renovated premises for its middle and high school campus by June 30, 2018; and

WHEREAS, on May 18, 2018, the Pacific Daily News reported that the Western Association of Schools and Colleges (WASC) had voted to withhold GACS's candidacy status, candidacy being an initial step towards seeking full accreditation within five years, as required by Guam law; and

WHEREAS, the WASC letter to GACS cited significant concerns about the school's governance and finances, a failure to notify WASC of a relocation of the middle and high school portions of the school in SY 2017-18, and a lack of evidence to show that GACS had immediate plans to address WASC concerns over conditions in the school's administration building, among other things; and

WHEREAS, the GACSC voted on June 14, 2018, to approve GACS's application to renew its charter for another five years, despite GACS not meeting the legal requirement to achieve accreditation within five years; and

WHEREAS, Committee on Education Chairman Joe San Agustin requested on June 15, 2018, for an opinion by the Attorney General on the legality of approving GACS's charter renewal; and

WHEREAS, on June 15, 2018, the Superintendent provided to the GEB an updated report on the financial and operational risks presented by GACS, outlining continued non-compliance to Government of Guam procurement law, financial concerns relative to questionable expenditures and expenditures over budget, eviction from the Shin Trust property, concerns about financial sustainability, among other things; and

WHEREAS, the GEB held a work session of the budget and finance committee on Monday, June 25, 2018, to further discuss these concerns;

NOW THEREFORE BE IT RESOLVED that the GEB strongly reiterates its request to the Guam Legislature that the budgets of the charter schools be appropriated separate and apart from the GDOE budget and that GDOE be relieved of its duties to review and approve charter school invoices; and

BE IT FURTHER RESOLVED, that, in the event that the Legislature fails to separate the charter school budgets from the GDOE budget, the Legislature then authorize the GEB to oversee the Guam Academy Charter School Council or, in the alternative, to directly authorize and oversee charter schools on Guam; and

BE IT FURTHER RESOLVED, that the GEB expresses significant concern with regard to the GACSC's ability to oversee charter schools and hold them accountable for failing to meet requirements in law and firmly requests that, in light of the deficiencies demonstrated by GACS, that GACSC either reconsider its support of GACS's charter renewal or place GACS on probation in order to compel the school to address and resolve its financial and operational weaknesses; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be transmitted to the Honorable Speaker Benjamin J.F. Cruz, *I Mina' Trentai Kuåttro Na Liheslaturan Guåhan*, and Chairman of the 34th Guam Legislative Committee on Appropriations and Adjudication, the Honorable Joe S. San Agustin, Chairman of the 34th Guam Legislative Committee on Education, Finance and Taxation, the Honorable Governor Edward Baza Calvo, *I Magá låhen Guåhan,* and the Honorable Amanda Blas, Chairwoman of the Guam Academy Charter School Council.

DULY AND REGULARLY ADOPTED THIS 26th DAY OF JUNE, 2018.

MARK B. MENDIOLA
Chairman, Guam Education Board

JON J.P. FERNANDEZ
Executive Secretary