

July 16th, 2019

Jon J.P. Fernandez
Superintendent of Education
501 Mariner Avenue
Barrigada, GU 96913

RE: Request to Produce Documents under the Education Financial Supervisory Commission, Pursuant to Title 17, §3133 (P.L. 30-164:2)

Buenas Superintendent Fernandez,

On June 20th, 2019, the Guam Department of Education Financial Supervisory Commission ("EFSC") convened for its monthly meeting and one of the items discussed on the agenda related to the duties and responsibilities of the EFSC. The EFSC is governed by Public Law 30-164:2, and codified under Title 17 of the Guam Code Annotated, §3133. The members of the EFSC discussed in great length during this meeting, and the past few meetings, the failure of this commission in carrying out its mandates and how the commission for the past years have not fully met its duties and responsibilities as provided for under the law. It is important that this commission re-evaluate its purpose and redetermine what its goals are going to be with respect to its relationship with the department and the board, and ensure that it falls in line with the responsibilities and duties, as required under the law. Subsection (c) of 3133, provides the scope of authority that is granted to this commission. This section reads as follows:

- (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;
 - (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;

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- (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.
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It is very disturbing to find that this commission has failed to meet many of its mandates for the past years. The only items that seem to be discussed on a monthly basis really relates to financial reports as it relates to monthly expenditures, and a cross check between DOA, BBMR, and OFB. There are 13 items provided above that are mandated duties of the EFSC, yet none of these items have been discussed by members of this commission to any one's knowledge for years.

In order to effectively carry out the mandates required under the law, it is essential that the commission be provided with any documents, contracts, records, or reports relating to the above subject matters. I have spoken to the voting directors, with the exception of one, and each have approved that GDOE should produce these budget documents, contracts, records, and/or reports that pertain to any of the items enumerated in subsections (1) through (13) of §3133(c), and any pending budget documents, contracts, records, and/or reports that pertain to any of these items. I am asking that any documents of these kinds in the past twelve months be provided to this commission, to include anything pending. This request to produce such documents are authorized under Guam law, and it is my belief that it really should not be the duty of the commission to have to make such requests, or seek approval of other the commission members to ask GDOE produce such documents or records when it is automatically authorized under the current law that it be provided to the commission members. There is no reason why the Guam Department of Education is not aware of these mandates as they also as members of the EFSC under Guam law. GDOE is designated as non-voting members and they participate actively in the monthly meetings. These meetings occur at the GDOE central office. As non-voting members of the EFSC, there is no reason why it should not be the responsibility of GDOE to bring these matters to the attention of the commission so that the commission can address these matters accordingly, and take whatever actions necessary to comply with the mandates that are required of the commission, which may include the review and approval of such matters. More so, the commission believes that the responsibility should be on GDOE to bring these matters to the attention of the commission in light of the time-sensitive nature of many of these subject

matters, as well as the fact that the commission will not be privy to most information unless it is brought to the attention of the commission by GDOE. An example is the fact that the EFSC commission, since its inception eight years ago, cannot confirm whether it has ever reviewed and/or approved 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. This unfortunately is a duty and responsibility of the EFSC, as outlined in §3133(c)(9) (*see above*).

With that said, as the parent representative of the EFSC, I kindly request from the department the production of its budget documents, contracts, records, and/or reports that pertain to any of the items enumerated in subsections (1) through (13) of §3133(c), for the past twelve months, as well as any pending budget documents, contracts, records, and/or reports that pertain to any of these items. I ask that this be produced and submitted to the EFSC chairperson as soon as practicable, and before the next commission meeting, which has been set for _____, 2019.

Thank you for your time and attention on this matter, and we look forward to hearing from you soon.

Best Regards,

Carol Hinkle-Sanchez
Parent Representative (GEFSC)

cc: Director Edward M. Birn, DOA
Director , BSP
Director Stephen Guerrero, OFB
Public Auditor Benjamin J. Cruz
Vice Speaker Telena Nelson

