

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
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UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via Electronic mail to:
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August 15, 2022

Senator Frank Blas, Jr.
Ste. 502 DNA Bldg.
238 Archbishop Flores St.
Hagåtña, Guam 96910

Re: Implementation of Educator Pay Plan

Dear Senator Blas,

It is my understanding that you and Senator Tony Ada have expressed reservations regarding the implementation of the updated Educator Pay Plan in May 2022. Your reservations appear to stem from the provisions of the FY22 Budget Act, which provides funding for GDOE to conduct a teacher pay plan study for submission to the Legislature in September 2022 and implementation in June 2023. I am writing to discuss the circumstances surrounding the May 2022 implementation of the Educator Pay Plan, the legal framework authorizing such implementation, and the substantial reasons the Legislature should not disrupt the implementation of the Educator Pay Plan.

For thirty years, Guam law has delegated the responsibility to assess and update government pay schedules to the Department of Administration ("DOA"). In Public Law 21-42 Part V Section 13, the Guam Legislature adopted and implemented a unified pay schedule, a uniform system of position classification, and salary administration for public employees through the Hay System, a broadly accepted job evaluation technique used in determining the pay structure in organizations. In adopting the Hay System, the Legislature further provided that the internal equity and external competitiveness of the plan should be reviewed at least every three (3) years, and that ongoing communication and training was a critical component of administering the compensation policy. 4 GCA § 6301 (c) and (f). Administration of the pay plan based on Hay methodology was assigned to the Director of Administration, who, along with the Judicial Council, was further charged with the responsibility to establish policies and procedures for implementation of the compensation policy in their respective jurisdictions. 4 GCA § 6302 (a) and (c).

The Legislature further authorized the Director of Administration, at his discretion, to delegate the responsibility for assessment and updating of the employee pay schedules to certain agencies, and

to coordinate training and resources to support such delegation. Specifically, section 4101.1 provides in relevant part as follows:

§ 4101.1. Responsibilities of the Director of Administration Regarding Personnel Policy of the Government. The Director of Administration shall perform the following functions:

. . . .

(h) Coordinate the fielding of necessary computer software and the training of personnel to allow the agencies, departments and public corporations listed in § 4105(a) of this Title to assess and update the unified pay schedule required by § 6302(a) of this Title;

(i) Delegate, at the Director's discretion, such authority under such terms as are appropriate, to the agencies, departments and public corporations listed in § 4105(a) of this Title to assess and update the unified pay schedule required by § 6302(a) of this Title[.]

The Guam Education Policy Board is among the government entities designated in 4 GCA § 4105(a) to which the Director of Administration may, at his discretion, delegate the authority to update its own pay plan. However, as of the time of this writing, no such delegation has been made. Though the Legislature adopted the unified pay schedule created utilizing the Hay System in 1992, Title 4 authorized DOA to assess and update government pay schedules administratively, and did not otherwise require legislative approval of such updates through the Administrative Adjudication Law or otherwise.

Consistent with this framework, the most recent government pay plan implemented prior to our Administration was likewise effectuated administratively by Governor Eddie Calvo in 2014. On September 11, 2013, in Public Law No. 32-068 ("2014 Budget Act"), the Legislature required that an updated pay plan be prepared to adjust the compensation, classification and benefits of public employees ("2014 Pay Plan"). P.L. No. 32-068 further required that such a plan be submitted to then Governor Calvo, for subsequent submission to and approval by the Guam Legislature. Although the 2014 Pay Plan was subsequently prepared and submitted to the Legislature, a disagreement surfaced between the Legislature and Governor Calvo regarding implementation of the plan, resulting in Governor Calvo's unilateral administrative implementation of the 2014 Pay Plan. To be clear, the 2014 Pay Plan that has been in use in Guam for the past eight (8) years was never adopted by the Legislature. Consistent with Title 4, it was developed and implemented by the DOA on order from former Governor Calvo.

The delegation of authority to the DOA has never been repealed or amended, including by the FY22 Budget Act. Therefore, the DOA retains its authority to assess and update government pay schedules as provided in statute.

Since we took office, our Administration has been hard at work to perform the necessary assessment and updating of government pay plans pursuant to Title 4. It is for this reason that we have been able to quickly and efficiently implement pay plans for the most critical government employees during the pandemic – our nurses, law enforcement officers, and teachers. These studies

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were in progress long before the FY22 Budget Act was enacted, and has enabled us to provide the necessary updates to our pay plans well in advance of the deadlines contemplated therein. Assessment of the remaining pay plans is in progress and also nearly complete.

While the Legislature can certainly pass a law to revert to the 8-year old plan for our teachers, I can state unequivocally that I will veto any such measure. Lt. Governor Josh Tenorio and I believe that proper compensation is a critical component of employee recruitment and retention. More importantly, it is just. Paying our government employees decent and fair wages contributes to their quality of life, their employment satisfaction, and, ultimately, their dignity. Our teachers have waited for too long to see this increase in their wages. This update is not a gratuity – it is based on accepted methodology for calculating employee compensation. It is what our teachers deserve.

While the FY22 Budget Act contemplated a GDOE pay study to be implemented a year from now, the immediate implementation in May 2022 of the Educator Pay Plan developed by DOA helped alleviate the rise in the cost of living and inflation, issues I would have expected that you would want addressed as soon as possible. Our teachers have already started to receive the benefit of Educator Pay Plan, and any disruption to its implementation would be extremely detrimental to their well-being, and the well-being of our children.

I hope this letter has helped resolve your concerns over the administrative implementation of the Educator Pay Plan. Now, more than ever, our teachers need our support. It is my hope that you will join me in supporting them, by properly funding the Educator Pay Plan.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan
Governor of Guam

cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*