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SUPERIOR COURT
OF GUAM

OCT 30 2025

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GUAM LEGAL SERVICES CORPORATION
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SUPREME COURT
OF GUAM

BY: AC 3:55pm

CLERK OF COURT

BY: af

Counsel for the Plaintiffs

IN THE SUPERIOR COURT OF GUAM

L.A., a person with a disability by and
through her parent, et.al.,

Plaintiffs,

vs.

Kenneth Erik Swanson, Ph.D., in his official
capacity as Superintendent, Guam
Department of Education, et al.,

Defendants.

Superior Court of Guam Case No. CV0464-23
Supreme Court of Guam Case No. CVA25-022

MOTION FOR ORDER REQUIRING
DEFENDANTS-APPELLANTS TO
REQUEST THE TRANSCRIPT OF
PROCEEDINGS AND ENTIRE RECORD;
EXHIBITS "A" & "B"

Plaintiffs-Appellees L.A. and G.D. through the undersigned counsel, find that it is necessary to move this Honorable Court for an Order that the Guam Department of Education ("GDOE") Defendants-Appellants¹ be required to order Transcripts of Proceeding and include the entire record. *Guam Rules of Appellate Procedure ("GRAP") Rule 7(b)(3)(C)*. Defendants-Appellants filed their "Notice of Appeal" on September 17, 2025.²

¹Superintendent of Education, Kenneth Erik Swanson, Ph.D, and the GDOE Board of Directors hereinafter as "GDOE Defendants-Appellants".

²*L.A. et al. v. KENNETH ERIK SWANSON, Ph.D., et al. "NOTICE OF APPEAL,"* Superior Court of Guam, Civil Case No. CV0464-23 (September 17, 2025).

MOTION FOR ORDER REQUIRING DEFENDANTS-APPELLANTS TO REQUEST THE TRANSCRIPT OF PROCEEDINGS AND ENTIRE RECORD; EXHIBIT "A" & "B"

L.A., ET.AL VS. SWANSON, ET.AL; CV0464-23

Page 1 of 6

1 On October 1, 2025, Defendants-Appellants filed under GRAP Rule 7(b)(1)(b) an
2 "ORDER TO COURT REPORTER REQUESTING PARTIAL TRANSCRIPT (Partial
3 Transcript Order).³ Defendants-Appellants claimed in their Partial Transcript Order that "the
4 Transcript of Proceedings do not appear to be necessary for the two issues regarding the Court's
5 conclusions of law. Defendants-Appellants apparently based this on their intent to urge on
6 appeal that the Guam Superior Court's determination that Plaintiffs-Appellees satisfied the
7 statutory requirements for achieving standing under the Adequate Education Act are
8 unsupported by two specific documents presented as evidence and contrary to law under the
9 Adequate Public Education Act."⁴ Defendants-Appellants also argued that the Transcript of
10 Proceedings do not appear to be necessary because:
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14 "the issue is capable of review based on the two claims of Plaintiffs-
15 Appellees filed on June 26, 2023 (Exhibits A and B attached to Defendants-
16 Appellants' Memorandum in Response to August 23, 2023 Order to Show
17 Cause filed on September 5, 2023; the Guam Superior Court Court's
18 Decision and Order Granting Motions to Dismiss filed on September 10,
19 2024; and the Court's Decision and Order Re Summary Judgment Motions
20 filed on May 6, 2025; and further posit that the Transcript of Proceedings
21 do not appear necessary for this issue."⁵
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23 In addition, Defendants-Appellants made a request for "a partial Transcript of Proceedings
24 pertaining to the Oral Argument on Defendants-Appellants' Motion to Dismiss set before the
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28 ³ L.A. et al., v. KENNETH ERIK SWANSON, Ph.D., et al. "ORDER TO COURT REPORTER REQUESTING PARTIAL TRANSCRIPT,"
Superior Court of Guam, Civil Case No. CV0464-23 (October 1, 2025).

⁴ *Id.* at page 2.

⁵ *Id.*

1 Guam Superior Court on or about May 31, 2024 at 2:00 p.m., and the Motion Hearing regarding
2 the parties' Motions for Summary Judgment scheduled before the Court on or about January 21,
3 2025 at 10:00 a.m. . . . to be paid by the Government of Guam (Guam Department of Education)
4 as required by the Court Reporter.”⁶ However, Plaintiffs-Appellees dispute and disagree with
5 Defendants-Appellants that these requests alone for a partial Transcript of Proceedings and
6 limited record are sufficient for appellate review of the appellate issues identified by them as
7 discussed further below.
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10 “[T]he Appellant must within ten (10) days provided in Rule 7(b)(1) file a statement of
11 issues that the Appellant intends to present on the appeal” See *GRAP Rule 7(b)(3)(A)*. On
12 October 1, 2025, Defendants-Appellants filed their “STATEMENT OF THE ISSUES” that
13 included the following three issues they intend to present on appeal:
14

- 15 (1) “whether the Guam Superior Court erred in awarding declaratory relief to
16 Plaintiff-Appellees under the “Every Child Is Entitled to an Adequate Public
17 Education Act,” Public Law 28-45 (the “Adequate Public Education Act”);
- 18 (2) whether the Court erred in determining that certified special education teachers
19 are required under the Adequate Public Education Act; and
- 20 (3) whether the Court erred in determining that Plaintiffs-Appellees satisfied the
21 statutory requirements for achieving standing under the Adequate Education Act.”
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26 ⁶*Id.* at page 3.

1 *L.A. et al., v. KENNETH ERIK SWANSON, Ph.D., et al*, "STATEMENT OF THE ISSUES,"
2
3 Supreme Court Case No. CVA25-022; Superior Court of Guam, Civil Case No. CV0464-23
4 (October 1, 2025). Pursuant to *GRAP Rule 7(b)(3)(B)*, Plaintiffs-Appellees determined it was
5 necessary to file and serve on October 9, 2025 a "DESIGNATION OF ADDITIONAL PARTS
6 TO BE ORDERED BY DEFENDANTS-APPELLANTS" requesting Defendants-Appellants to
7 designate and order the entire transcripts and entire composition of the Record on Appeal of the
8 Superior Court case of *L.A., et. al., v. Kenneth Erik Swanson, et. al.*, CV0464-23. See *GRAP*
9 *Rule 7(b)(3)(B)*. Defendants-Appellants had ten (10) days to after service of the
10 "DESIGNATION OF ADDITIONAL PARTS TO BE ORDERED BY DEFENDANTS-
11 APPELLANTS" to ordered such parts and notify Plaintiffs-Appellees. See *GRAP Rule*
12 *7(b)(3)(C)*. No response was received nor was there any additional designation of the record on
13 or before October 23, 2025.
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16 Pursuant to *GRAP Rule 7(b)(3)(C)*, Plaintiffs-Appellants find it necessary to move this
17 Court to require Defendants-Appellants to order from the Clerk of the Superior Court of Guam
18 the entire composition of the Record on Appeal including pay for the Transcript of Proceedings.
19 See *GRAP Rule 7(a)*.⁷ The first issue of Defendants-Appellants' "STATEMENT OF THE
20 ISSUES" appealing whether the Superior Court erred in awarding declaratory relief to Plaintiff-
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25 ⁷ *GRAP Rule 7* -- The Record on Appeal constitutes the original papers and exhibits filed in the Superior Court; the transcript of
26 proceedings, if any; and a certified copy of the docket entries prepared by the Superior Court. *GRAP Rule 7(a)(1), (2), & (3)*.

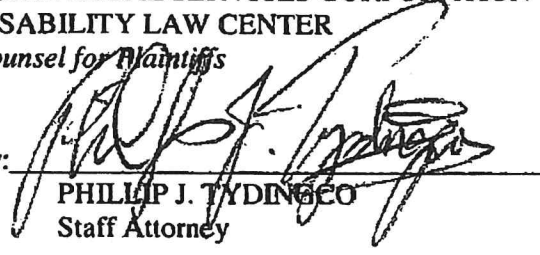
1 Appellees under the Adequate Education Act” is by itself immense in scope and complex in
2 substance involving law, evidence, and facts. Under *GRAP Rule 7(b)(1) & (2)*, Defendants-
3 Appellants have the “responsibility of ordering the appropriate transcripts of the proceedings at
4 issue.” *J.J. Moving Service, Inc., v. Sanko Busan Co., Ltd*, 1998 Guam 19 ¶ 10. Even though the
5 last two remaining issues of the Statement of Issues appear to be specific as to “certified special
6 education teachers” and “standing,” they are nonetheless so broad that the record as requested
7 by Defendants-Appellants is inadequate to address not only these two issues but also the first
8 issue of whether the Court erred as to granting Judgment for Declaratory Relief to Plaintiffs-
9 Appellees. For example, Defendants-Appellees only designate or identify three documents in
10 their Partial Transcript Order⁸ in addition to designating partial transcripts of two hearings. Such
11 a record of appeal barely addresses Defendant-Appellees’ issues. Moreover, numerous examples
12 of relevant and material pleadings, declarations, exhibits, motions and supporting memoranda,
13 as well as transcripts of hearings exist in the record below, *See Exhibit “A”*, that are pertinent to
14 Defendants-Appellants’ issues as copied from the Superior Court’s Docket. *See attached Exhibit*
15 *“B” (Superior Court Docket Sheet)*. Plaintiffs-Appellees submit that the entire record sought by
16 Defendants-Appellants provides an insufficient amount of information needed for the Supreme
17 Court of Guam to properly review their three issues.
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26 ⁸ *L.A. et al., v. KENNETH ERIK SWANSON, Ph.D., et al*, “ORDER TO COURT REPORTER REQUESTING PARTIAL TRANSCRIPT.”
Superior Court of Guam. Civil Case No. CV0464-23 (October 1, 2025).

1 Therefore, Defendants-Appellants "must place into the record all evidence, good and bad,
2 material to the point he wishes to raise and necessary for the determination of the issues presented
3 on appeal." *J.J. Moving Service, Inc., v. Sanko Busan Co., Ltd*, 1998 Guam 19 ¶ 10 (internal
4 citations omitted).
5

6 Dated: 10/30/2025

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8 GUAM LEGAL SERVICES CORPORATION
9 DISABILITY LAW CENTER
10 Counsel for Plaintiffs

11 By: 

12 PHILIP J. TYDINGCO
13 Staff Attorney
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27 MOTION FOR ORDER REQUIRING DEFENDANTS-APPELLANTS TO REQUEST THE TRANSCRIPT OF
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L.A., ET.AL VS. SWANSON, ET.AL; CV0464-23

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Supreme Court of Guam, Clerk of Court

GUAM DEPARTMENT OF EDUCATION

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E-mail: legal-admin@gdoe.net
Attorneys for Defendants

IN THE SUPREME COURT OF GUAM

**L.A., a minor person with a disability
by and through her parent, and
G.D., a minor person with a disability
by and through his parent,**

Plaintiffs-Appellees,

vs.

**KENNETH ERIK SWANSON, Ph.D.,
in his official capacity as Superintendent,
Guam Department of Education, et al.,**

Defendants-Appellants.

Supreme Court Case No. CVA 25-022
Superior Court Case No. CVA 0464-23

STATEMENT OF THE ISSUES

TO: THE CLERK OF THE SUPREME COURT OF GUAM

GRAP REQUIRES PROVIDING COPY TO SUPREME COURT OF GUAM

GRAP REQUIRES SERVING COPY TO PLAINTIFFS-APPELLEES

Defendants-Appellants, Kenneth Erik Swanson, Ph.D., in his official capacity as
Superintendent of the Guam Department of Education ("GDOE"); Angel R. Sablan, in his

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1 official capacity as the Guam Education Board (“Board”) Chairman¹; and those respective
2 individuals named in their official capacity as Board members submit this Statement of the
3 Issues pursuant to Rule 7(b)(3)(a) of the Guam Rules of Appellate Procedure by and through
4 GDOE Legal Counsel Jesse N. Nasis. The issues that Defendants-Appellants intend to
5 present on appeal are: 1) whether the Guam Superior Court erred in awarding declaratory
6 relief to Plaintiffs-Appellees under the “Every Child is Entitled to an Adequate Public
7 Education Act,” Public Law 28-45 (the “Adequate Education Act”); 2) whether the Court
8 erred in determining that certified special education teachers are required by the Adequate
9 Education Act; and 3) whether the Court erred in determining that Plaintiffs-Appellees
10 satisfied the statutory requirements for achieving standing under the Adequate Education
11 Act.

12 Respectfully submitted on October 1, 2025.

13 **GUAM DEPARTMENT OF EDUCATION**

14
15
16 By:


17 **JESSE N. NASIS**

Attorneys for Defendants-Appellants

18
19 ¹ Plaintiffs-Appellants’ Second Amended Complaint for Declaratory and Injunctive Relief filed in the Guam
20 Superior Court on January 22, 2024 states “Dr. Mary A.Y. Okada, in her official capacity as Guam Department
21 of Education Board Chairwoman, Maria A. Gutierrez, in her official capacity as Guam Department of
22 Education Vice-chair” and names other individuals in their official capacities as Board members. However, the
23 current Board Chairman is Angel R. Sablan, the current Board Vice-chair is Dr. Mary A.Y. Okada, and Lourdes
24 M. Benavente and Karlyn R.C.G. Borja are no longer members of the Board.



Filed

Supreme Court of Guam, Clerk of Court

GUAM DEPARTMENT OF EDUCATION

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Attorneys for Defendants

IN THE SUPREME COURT OF GUAM

**L.A., a minor person with a disability
by and through her parent, and
G.D., a minor person with a disability
by and through his parent,**

Plaintiffs-Appellees,

vs.

**KENNETH ERIK SWANSON, Ph.D.,
in his official capacity as Superintendent,
Guam Department of Education, et al.,**

Defendants-Appellants.

Supreme Court Case No. CVA 25-022
Superior Court Case No. CVA 0464-23

REPRESENTATION STATEMENT

TO: THE CLERK OF THE SUPREME COURT OF GUAM

Defendants-Appellants, Kenneth Erik Swanson, Ph.D., in his official capacity as Superintendent of the Guam Department of Education ("GDOE"); Angel R. Sablan, in his official capacity as the Guam Education Board ("Board") Chairman¹; and those respective

¹ Plaintiffs-Appellants' Second Amended Complaint for Declaratory and Injunctive Relief filed in the Guam Superior Court on January 22, 2024 states "Dr. Mary A.Y. Okada, in her official capacity as Guam Department

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1 individuals named in their official capacity as Board members, submit this Representation
2 Statement pursuant to Rule 8(b) of the Guam Rules of Appellate Procedure by and through
3 GDOE Legal Counsel Jesse N. Nasis. GDOE Legal Counsel Jesse N. Nasis and Matthew E.
4 Wolff represent Defendants-Appellants Superintendent Swanson and the respective members
5 of the Board; and L.A. and G.D. are the Plaintiffs-Appellees represented by Guam Legal
6 Services Corporation-Disability Law Center Attorneys Daniel Somerfleck and Phillip
Tydingco.

7 Respectfully submitted on October 1, 2025.

8
9 **GUAM DEPARTMENT OF EDUCATION**

10
11
12 By:



JESSE N. NASIS
Attorneys for Defendants-Appellants

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20 of Education Board Chairwoman, Maria A. Gutierrez, in her official capacity as Guam Department of
21 Education Vice-chair” and names other individuals in their official capacities as Board members. However, the
current Board Chairman is Angel R. Sablan, the current Board Vice-chair is Dr. Mary A.Y. Okada, and Lourdes
M. Benavente and Karlyn R.C.G. Borja are no longer members of the Board.

FILED
SUPERIOR COURT
OF GUAM

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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

BY: 

CIVIL CASE NO. CV0464-23

JUDGMENT

L.A., a minor person with a disability by and through her parent,

G.D., a minor person with a disability by and through his parent,

E.R., a minor person with a disability by and through his parent,

N.K., a minor person with a disability by and through her parent,

N.K., a minor person with a disability by and through his parent,

E.G., a minor person with a disability by and through his parent,

F.A., a minor person with a disability by and through her parent,

J.B., a minor person with a disability by and through his parent,

J.Y., a minor person with a disability by and through his parent, and

M.R., a minor person with a disability by and through his parent,

Plaintiffs,

vs.

Kenneth Erik Swanson, Ph.D., in his official capacity as Superintendent, Guam Department of Education,

Dr. Mary A.Y. Okada, in her official capacity as Guam Department of Education Board Chairwoman,

Maria A. Gutierrez, in her official capacity as Guam Department of Education Board Vice-Chair,

Peter Alecxis D. Ada, in his official capacity

ORIGINAL

as Guam Department of Education Board Member,

Felicitas B. Angel, in her official capacity as Guam Department of Education Board Member,

Lourdes M. Benavente, in her official capacity as Guam Department of Education Board Member,

Karlynn R.C.G. Borja, in her official capacity as Guam Department of Education Board Member,

Dr. Ron L. McNinch, in his official capacity as Guam Department of Education Board Member, and

Angel R. Sablan, in his official capacity as Guam Department of Education Board Member,

Defendants.

Following the Court's September 10, 2024 Decision and Order Granting Motions to Dismiss, May 6, 2025 Decision and Order Re Summary Judgment Motions, and the parties' stipulation at a hearing on July 31, 2025, the Court renders Judgment as follows:

1. The Court dismisses all claims under the "Every Child is Entitled to an Adequate Public Education Act," Public Law 28-45 ("Adequate Education Act") filed by E.R., N.K., N.K., E.G., F.A., J.B., J.Y, and M.R. brought against Defendants Guam Department of Education Superintendent of Education Kenneth Erik Swanson, Ph.D., in his official capacity, and members of the Guam Department of Education Board.
2. On L.A.'s claims for an injunction due to Adequate Education Act violations, the Court finds in favor of Defendants.

ORIGINAL

3. On L.A.'s claim for declaratory relief due to Adequate Education Act violations related to the failure to provide a safe and healthful environment, with the exception of the issue of mold, the Court finds in favor of Defendants.
4. On L.A.'s claim for declaratory relief to Adequate Education Act violations related to the failure to provide a certified teacher, the Court finds in favor of L.A. The Court declares that Defendants violated the Act for failing on 29 or more occasions to provide certified special education teachers for L.A. while at Agueda I. Johnston Middle School (AIJMS).
5. On G.D.'s claims for an injunction due to Adequate Education Act violations, the Court finds in favor of Defendants as Oceanview Middle School (OMS) has a current valid health permit.
6. On G.D.'s claim for declaratory relief due to Adequate Education Act violations related to the failure to provide a safe and healthful environment, with the exception of the issue of mold, the Court finds in favor of G.D. The Court declares that Defendants violated the Adequate Education Act in failing to provide a healthful, safe, and sanitary learning environment based on the DPHSS inspections and ratings for the six months prior to G.D.'s claim and until OMS received a passing inspection grade.
7. Relative to L.A. and G.D.'s claims for declaratory relief on the issue of mold, and pursuant to the parties' stipulation relative to the issue of mold, the Court issues declaratory relief in favor of L.A. and G.D. and declares:
 - a. On August 18, 2023, there was mold at AIJMS and OMS; and
 - b. Mold is unhealthful for students.

ORIGINAL

SO ORDERED, ADJUGED, AND DECREED this 18 August 2025.


HON. ELAZE M. IRIARTE
Judge, Superior Court of Guam

SERVICE VIA EMAIL

I acknowledge that an electronic
copy of the original was e-mailed to:

64c; Doe; Al'shu

Date: 8/18/25 Time: 2:58 PM

Scott E. Hermosilla

Deputy Clerk, Superior Court of Guam

SERVICE VIA COURT BOX

I acknowledge that a copy of the
original hereto was placed in the
court box of:

Doe; Al'shu

Date: 8/18/25 Time: 2:58 PM

Scott E. Hermosilla

Deputy Clerk, Superior Court of Guam

FILED
SUPERIOR COURT
OF GUAM

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CLERK OF COURT

IN THE SUPERIOR COURT OF GUAM

L.A., a minor person with a disability by and
through her parents, et. al.,

Plaintiffs,

vs.

KENNETH SWANSON, Ph.D., in his official
capacity as Superintendent, Guam Department
of Education, et. al.,

Defendants.

Civil Case No.: CV0464-23

GUAM LEGAL SERVICES CORPORATION – Attorney for Plaintiffs
434 West O’ Brien Drive, Ste. 102, Hagatna, Guam 96910
GUAM DEPARTMENT OF EDUCATION – Attorney for Defendants
501 Mariner Avenue, Barrigada, Guam 96913
Office of the Attorney General of Guam – Civil Division
134 W Soledad Avenue, Suite 302, Hagatna, Guam 96910

NOTICE OF ENTRY ON DOCKET

On August 19, 2025, the JUDGMENT filed on August 18, 2025 was entered on the Docket in this matter.

Dated: August 19, 2025

JANICE M. CAMACHO-PEREZ

Clerk of Court

By: Scott E. Hermosilla

Deputy Clerk

DECLARATION OF MAILING

On August 19, 2025, after I had enclosed a sealed copy of the Notice of Entry on Docket in an envelope addressed to the individual(s) in said notice, I caused the same envelope with postage affixed to be placed in the U.S. mailbox.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Dated: August 19, 2025

Scott E. Hermosilla
Declarant