

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

July 18, 2023

Chris Barnett, *Senator*
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Senator Barnett,

I am writing to discuss your recent comments to the media regarding the status of public school reopenings for the upcoming school year in light of Guam Public Law 37-4, legislation you introduced and the Guam Legislature enacted, that requires the Guam Department of Education's ("GDOE") immediate compliance with public health's school sanitation regulations. Specifically, you have claimed that delays in opening schools are due to the Department of Public Health and Social Services' ("DPHSS") failure to promptly issue variances to schools. Unfortunately, it appears that you do not fully appreciate the true impact P.L. 37-4 will have on GDOE, and that you have fundamentally misunderstood what kind of variances your public law allows.

Your law limits the circumstances in which DPHSS may grant variances to public schools. Specifically, P.L. 37-4 provides that DPHSS *shall not* issue a variance to a GDOE school if failure to comply with the regulations will result in the suspension of the school's sanitary permit. A suspension occurs when an inspection is conducted and over forty (40) demerits are found. In order to even determine whether certain requested variances would result in sufficient demerits to require suspension, in compliance with P.L. 37-4, DPHSS must perform a complete inspection of the facility.

Recent DPHSS records reveal that several public schools fall well below the 40-demerit standard, including Oceanview Middle School, with 61 demerits; Simon Sanchez High School, with 66 demerits, and Southern High School, with 60 demerits. During my recent meeting with GDOE's new Superintendent, Dr. K. Erik Swanson, he confirmed that at least six (6) schools will require substantial renovation in order to come into compliance with sanitation regulations. Liberal variances will not help these schools.

After P.L. 37-4 was enacted, DPHSS began inspecting GDOE schools based on a list of priority inspections provided by GDOE of schools GDOE believes were ready to open. Two of the schools on GDOE's priority list failed their inspections – Adacao Elementary School with 59 demerits, and John F. Kennedy High School with 57 demerits. These schools and many others are anticipated to come into compliance following repair and maintenance over the coming weeks and months, but are not currently in compliance. However, because P.L. 37-4 requires that all GDOE schools must come into compliance *now*, noncompliant schools must remain closed, and GDOE must find alternative learning solutions for thousands of its affected students.

To: Chris Barnett, *Senator*, 37th Guam Legislature
Fr: The Honorable, Lourdes A. Leon Guerrero, *Governor of Guam*
Date: July 18, 2023

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Though GDOE has significant financial resources, it needs more time to come into compliance with sanitation requirements. Under prior regulations, GDOE had until June 14, 2024 to come into compliance. By passing P.L. 37-4, however, you deliberately cut their compliance deadline by a full year, which GDOE specifically asked you not to do. During the March 9, 2023 public hearing for P.L. 37-4, Acting Superintendent Judith Won Pat told you GDOE would not be able to bring its schools into compliance by the 2023-2024 School Year, as required by your law:

Introducing legislation that supports an untested timeline with the threat of school closures will not move things along faster. Our recommendation is to keep the timeline stipulated by the original law for June 2024...Senators, we agree with you that we need to provide a safe learning environment for our students. **This bill in its current form though will force GDOE to close schools and cause the return of virtual learning. Five months is not a realistic timeline that all schools are going to be able to meet.**

GDOE warned you that passing P.L. 37-4 would force GDOE to close schools. You ignored their warning. It is now three (3) weeks before the August 9, 2023 target date to reopen schools, and it is clear that GDOE will not be able to broadly come into compliance with sanitary regulations as required by your law. However, no one can claim to be surprised by this, especially you.

Public Law 37-4 *paralyzes* our schools, rendering them unable to open for the upcoming school year. Instead of accepting responsibility for your impulsive actions, you are trying to deflect blame for your flawed legislation to the agencies that are trying hard to meet the impossible task you imposed on them. While I share your concern for the safety and well-being of our children, legislation affecting regulatory processes should not be crafted haphazardly. Amending these laws and regulations properly requires the deliberate precision of a scalpel, not the clumsy bluntness of a hammer.

Lt. Governor Josh Tenorio and I will continue to do all that we can to help divert resources of the executive branch to GDOE. However, as oversight chair over Education, you have unique authority and responsibility to help our schools. Instead of creating gradual benchmarks to help our schools focus on their most serious needs and dedicate resources to addressing those issues, you passed a law that forces impossible timelines on our schools, ultimately hurting our community, our families, and our children.

Legislatively created problems require legislative solutions. I look forward to hearing how you intend to fix the problem you created.

Senseramente,



LOURDES A. LEON GUERRERO
Maga'hāgan Guåhan
Governor of Guam