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CHAPTER 2
SEX DISCRIMINATION IN EDUCATIONAL INSTITUTIONS

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

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§ 2101. Declaration of Purpose.

It is the policy of the territory of Guam to afford to all persons regardless of sex, equal rights and opportunities in the educational institutions. This Chapter is to prohibit acts which are contrary to such policy and to provide remedies therefor.

SOURCE: §11050 GC, as added by P.L. 14-46.

§ 2102. Prohibition Against Sex Discrimination.

(a) No person shall be subjected to discrimination on the basis of sex in any program or activity of an educational institution receiving or benefiting from government of Guam funds.

(b) For purposes of this Chapter, discrimination on the basis of sex shall include but not be limited to the following practices:

(i) On the basis of sex, exclusion of a person or persons from the participation in, denial of the benefits of or subjection, to discrimination in any academic, extra-curricular, research, occupational training or other program or activity;

(ii) On the basis of sex, provision of different amounts or types of financial assistance, limitation of eligibility for such assistance, the application of different criteria to applicants for financial assistance or

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participation in the provision of such financial assistance by others;
and

(iii) On the basis of sex, exclusion from participation in or denial of equal opportunity in athletic programs.

This Section shall not apply to the admissions policy of any institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex.

SOURCE: §11051 GC, as added by P.L. 14-46.

§ 2103. Definitions.

The following definitions shall govern the construction of this Chapter:

(a) *Educational institution* means any preschool, elementary or secondary school, any institution of vocational, professional or higher education, or a public board of education, or other public authority legally constituted for either administrative control or direction of, or to perform a service function for public elementary or secondary schools on Guam.

(b) *Government of Guam Financial Assistance* means:

(i) The provision of funds authorized or appropriated pursuant to law provided by loan, grant, contract, tax rebate, formula, allocation or any other means for: operation or maintenance; acquisition, construction, renovation, restoration or repair of a building or facility or any portion thereof; scholarships, loans, grants, wages or other funds extended to any educational institution for payment to or on behalf of students admitted to such institutions, or extended directly to such students for such institution.

(ii) A grant of government property or any interest therein.

(iii) Provision of the services of government personnel.

(iv) Sale or lease of government property or any interest therein at nominal or reduced consideration or permission to use government property or any interest therein without consideration.

(v) Any other contract, agreement or arrangement which has as one of its purposes the provision of assistance to any education programs or activity.

SOURCE: §11052 GC, as added by P.L. 14-46.

§ 2104. Textbooks, Sex-Role Stereotypes, Training for Teachers and Counselors.

(a) The Department of Education shall encourage the use of materials which present a balanced view of the historical, cultural, literary, scientific, political and sociological contributions of women and discourage texts and materials which present an unrebutted stereotypical view of either sex.

(b) This Section shall not apply to instructional materials utilized in any postsecondary program, nor shall the term instructional materials be construed to include works of fiction or other literature.

SOURCE: §11053 GC, as added by P.L. 14-46.

§ 2105. Facilities.

Nothing herein shall be construed to prohibit any educational institution from maintaining toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided.

SOURCE: §11054 GC, as added by P.L. 14-46.

§ 2106. Authority to Issue Regulations.

The Department of Education shall effectuate the provisions of this Chapter by issuing rules, regulations pursuant to the provisions of the Administrative Adjudication Act.

SOURCE: §11055 GC, as added by P.L. 14-46.

§ 2107. Compliance.

(a) An educational institution shall provide assurance to the Director of Administration that each program or activity operated by such educational institution will be operated in compliance with this Chapter, provided that a single assurance may be provided for all programs under the jurisdiction of any institution.

(b) An educational institution shall permit access by the Director of Administration during regular business hours to search of its books, records, accounts and other source of information and its facilities, and shall permit the Director of Administration to make copies of any such written information as may be pertinent to ascertain compliance with this Chapter.

(c) An educational institutions shall, within one year of the effective date of this Chapter:

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(i) Evaluate, in terms of the requirements of this Chapter and regulations issued pursuant thereto, its current policies and practices and the effects thereof concerning admission of students, treatment of students and employment of both academic and non-academic personnel;

(ii) Modify any of these policies and practices which do not or may not meet the requirements of this Chapter; and

(iii) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

SOURCE: § 11056 GC, as added by P.L. 14-46. Amended by P.L. 28-068:IV:42 and 47 (Sept. 30, 2005), effective January 1, 2006; reference to Civil Service Commission changed to Director of Administration.

§ 2108. Enforcement.

(a) Any person or organization who believes himself or herself or any specific class of persons, or a third party acting on behalf of a person or organization who believes himself or herself subjected to discrimination prohibited by this Chapter may file with the Civil Service Commission a written complaint, not later than one hundred and eighty (180) days from the date of the alleged discrimination. Whenever a compliance review, report, complaint or any other information indicates a possible violation of this Chapter, the Civil Service Commission shall make a prompt investigation. If such investigation indicates that a violation has occurred, the Civil Service Commission shall issue a Notice of Probable Violation setting forth the facts which constitute the violation and prescribing the actions to be taken by the educational institution to terminate the violation. The recipient of a Notice of Probable Violation shall, within a period prescribed by regulations but not less than thirty (30) days, respond to such notice, admitting or contesting the facts therein and agreeing or objecting, in whole or in part, to the remedial actions requested. Within thirty (30) days after such response, the Civil Service Commission shall arrange for a conference with the educational institution to seek agreement to terminate such discriminatory practices as may exist. Notice of such conference shall be provided to the complainant who shall have the right to attend. Any such agreement shall be written and subject to public inspection. No agreement shall be final unless the complainant is a party to any agreement which may result or has specifically waived such right. Any individual complainant

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shall have the right to be represented by counsel and to be accompanied or represented by an organization which represents that employee.

No agreement under this Section which might affect the terms of an agreement between an employee organization and the educational institution shall be reached without the concurrence of said employee organization.

(b) If an educational institution receiving a Notice of Probable Violation does not agree to take the remedial actions prescribed therein or does not, in fact, take such action, the Civil Service Commission may issue a Notice of Violation setting forth the basis for its finding that the educational institution is in violation of this Chapter and may, acting thereupon, terminate any or all state financial assistance to the institution. Any action taken pursuant to this Section shall be subject to judicial review as is otherwise provided by law.

(c) If a complaint with the Department of Education is dismissed by the Civil Service Commission or if, within one hundred and eighty (180) days from the filing of the complaint, the Department of Education has not terminated government financial assistance or taken other action to remedy discrimination, the Department of Education shall notify the complainant and the state the reasons therefor and, within one hundred and eighty (180) days after the giving of such notice, the complainant may bring a civil action for damages and injunctive and affirmative relief, against the educational institution. In the case of any successful action by a complainant to enforce the provisions of this Chapter, the court shall award the costs of the action, together with a reasonable attorney's fee, as determined by the court to the complainant.

(d) The remedies provided by this Section shall be in addition to any other rights of a complainant at law or in equity.

SOURCE: §11057 GC, as added by P.L. 14-46.
