June 25, 2012

LEGAL MEMORANDUM

To: Interim Superintendent, Department of Education

From: Attorney General

Subject: Application of Robert’s Rules of Order to Guam Education Board Actions

This is in response to your request regarding the application of Robert’s Rules of Order (Robert’s Rules) to the Guam Education Board (“Board”) actions.

DISCUSSION

Guam law sets forth the voting requirements for a valid action of the Board. Title 17 G.C.A. § 3102.2 states “... an affirmative vote of five (5) members is required for any action to be valid.” This statute was added by P.L. 30-183:2 (August 25, 2010) and amended by P.L. 31-019:4 (April 18, 2011).

The Board also has a policy pertaining to voting at board meetings. Board policy 125.04 was adopted prior to the statute and it provides, “[w]here not provided by law or Board policy, conduct of Board operations and meetings shall be in accordance with Robert’s Rules of Order, Newly Revised.” This policy was adopted on August 2, 1977 and revised on October 2, 1979.

Since voting at board meetings is provided by law, Robert’s Rules of Order does not apply. The Supreme Court of Guam stated that “‘[i]f there is no ambiguity in the language, we presume the Legislature meant what it said, and the plain meaning of the statute governs.’ (citations omitted).” Attorney General v. Gutierrez, 2011 Guam 10. “It is ‘[o]ur duty to interpret statutes in light of their terms and legislative intent’ and thus, ‘[a]bsent clear legislative intent to the contrary, the plain meaning prevails.’ (citation omitted).” Guam Election Commission, 2007 Guam 20. “In cases involving statutory construction, the starting point of the court’s analysis must be the language employed by the Legislature. (citation omitted) This is because of the presumption that the legislative purpose is expressed by the
ordinary meaning of the words used. *Id.* This presumption, known as the plain-meaning rule . . .” *Bowlby v. Nelson*, 1985 WL 56583 (D.Guam A.D.).

Here, the statute on its face is clear. A plain reading of 17 G.C.A. § 3102.2 requires an affirmative vote of five (5) Board members for *any* action to be valid.

The words “*any action*” have broad application and the use of the words in the statute by the Legislature conveys its intent to apply to all voting requirements conducted at Board meetings. The intent of the Legislature is also made evident by the omission of words or phrases that would require voting at board meetings in accordance with the Robert’s Rules of Order since the statute was enacted many years after the Board policy was adopted. *See, e.g., Yellow Freight Sys., Inc. v. Donnelly*, 494 U.S. 820, 823 (1990) (reasoning that the omission of certain language in the statutory scheme is evidence of legislative intent to leave such language out); *Am. Hosp. Ass'n v. N.L.R.B.*, 499 U.S. 606, 613 (1991) (same).¹

This is consistent with the Board’s policy to conduct Board operations and meetings in accordance with Robert’s Rules when not provided by law. Robert's Rules would not need to apply to Board’s actions since the statute clearly provides for the number of affirmative votes for *any* Board action to be valid. Applying a more stringent voting requirement in accordance with Robert’s Rules would be contrary to the statute and policy.

**CONCLUSION**

Robert’s Rules pertaining to the number of votes required at a board meeting is inapplicable since Guam law provides the number of affirmative votes required for *any* Board action to be valid.

Respectfully Submitted,

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SHANNON TAITANO
Assistant Attorney General

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¹ The Supreme Court of Guam cited these cases in *Core Tech v. Hanil*, 2010 Guam 13, to determine whether the statute at issue was ambiguous.