

Matt Rector
President

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Secretary

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Treasurer



AFT Local 1581
AFL-CIO

August 31, 2011

Taling M. Taitano
Interim Superintendent
Guam Department of Education
P.O. Box D.E.,
Hagatna, GU 96932

Dear Ms. Taitano:

Buenas Yan Hafa Adai!!! It has come to our attention that DOE's EEO has issued a disability survey to DOE employees that is in clear violation of Federal Law. According to the federal website (www.eeoc.gov/policy/docs/guidance-inquiries.html#4):

"An employer may ask employees to voluntarily self-identify as individuals with disabilities when the employer is:

- undertaking affirmative action because of a federal, state, or local law (including a veterans' preference law) that requires affirmative action for individuals with disabilities (*i.e.*, the law requires some action to be taken on behalf of such individuals); or,
- *voluntarily* using the information to benefit individuals with disabilities.

If an employer invites employees to voluntarily self-identify in connection with the above-mentioned situations, **the employer must indicate clearly and conspicuously on any written questionnaire** used for this purpose, or state clearly (if no written questionnaire is used), that: (1) the specific information requested is intended for use solely in connection with its affirmative action obligations or its voluntary affirmative action efforts; and, (2) **the specific information is being requested on a voluntary basis**, that it will be kept confidential in accordance with the ADA, that refusal to provide it will not subject the employee to any adverse treatment, and that it will be used only in accordance with the ADA.⁽⁸⁰⁾

If you look at the survey that was distributed it is quite clear that neither of these criteria are met. This survey does not state in any form let alone *clearly and conspicuously* that this information will be solely used for affirmative action efforts. Nor does it state this is on a voluntary basis, in fact it states the opposite:

"Please fill out the survey and return it to your immediate supervisor no later than the close of business on Tuesday, August 30, 2011."

This is of grave concern to us, our members and their families. Because most employees are fearful of disobeying a direct order I am sure that hundreds if not thousands of employees of the Department of Education have been unlawfully coerced into disclosing personal medical information. We expect immediate action to be taken to protect every employee's personal medical information and to rectify this situation as soon as humanly possible. Once this has been accomplished we request a detailed report of all actions that DOE took. We also expect that the person or persons responsible for this horrific breach of privacy and law be held accountable for their actions.

Sincerely

Matt Rector
President

Cc: Governor Calvo
31st Guam Legislature
Attorney General Rapadas

Department of Education	
Director and Superintendent	
DATE: 8.31.11	TIME: 2:20
Rec'd by: ESCU	Signature: [Signature]

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