

The Guam Board of Registration for Professional Engineers, Architects and Land Surveyors  
**PEALS Board Regular Meeting**

Friday, April 14, 2017, PEALS Board Conference Room Suite 208 09:03AM - 11:13 AM

Present: Gabriel A. Jugo PE SE, Chairman H. Mark Ruth, RA, Vice Chair  
Maria Elizabeth V Cristi, PE/Sec & Treas. Paul L. Santos, PLS, Member  
Liza J. Provido, RA Philip I. Villanueva, Public Member  
Glenn Leon Guerrero, DPW Director Raymond C. Borja, Exec. Board Adm.  
Marie Villanueva, Adm. Asst. Nixon Isaac, Board Investigator

Absent: Atty. Tom Keeler

Guest: Kristine A. Harding, NCARB President Michael Armstrong, NCARB CEO  
Josh C. Batkin, Director, Council Relations

**Item 1, Call to Order**

BC Jugo called the meeting to order at 9:03 am. Members in attendance as noted above.

**Item 2, Minutes for Approval**

2.A Board reviewed March 28, 2017, meeting minutes.

Motioned to approve meeting minutes' subject to corrections being discussed in today's meeting.

(VC Ruth) PG 12 ITEM 5.D Anderson, Thomas T. – Request Reinstatement of Practice Surveying and Waiving of all exam requirements in the presence of a 10-year lapse due to Criminal Offense.

(VC Ruth) Wanted it noted that Anderson had surrendered is land surveying license #042 on July 25, 1991. Twenty-five years has since lapsed since his last registration and practicing in the capacity of a surveyor. This should be noted in the minutes.

(BM Santos) PG 4, ITEM 5.G Maria M. Santos. BM Santos wants it clearly stated the "M" is for Melet, Santos. (Referring to Meeting Minutes of January 17, 2017)

DPW Director Leon Guerrero commented we are welcome to use the DPW Conference room facilities for future Board Meetings if accommodations are required for a larger accommodation.

(BM Provido) PG 11, ITEM 4.F – last paragraph. Need to clarify "Citizenship." To input, the following words, " is a citizen of the United States, or a legally admitted alien authorized to work in the United States"...

(PM Villanueva) PG 10, ITEM 4.F OPA. Questioned if the OPA requested information had been submitted by the end of the week per meeting minutes. EBA Borja noted, no, but he will complete in the next couple of days together with the list to be provided for the Board.

(PM Villanueva) PG 8, ITEM 4.B Questioned if a copy of the lien that was placed on Arceo's property been given to Atty. Keeler? EBA Borja stated yes and that AAG Keeler is working on it. EBA Borja noted our previous AAG representative, Highsmith, had all these documents and was working on it and when they changed out AAG's Keeler became our new AAG representative. Keeler wanted to do things his way and not follow what AAG Highsmith was doing.

BC Jugo interject that these are a review of minutes. Comments will be addressed under "Old Business."

(BC Jugo) PG 14 of 17, ITEM 5.K, last paragraph Bottom Right-hand Corner, second paragraph, "BC Jugo suggest we extend reach to an off-island surveyor...." Scratch "off-island surveyor" replace that with "another." An off-island survey was not BC Jugo's intent.

(BC Jugo) PG 15 of 17, ITEM 6.B, top page. "To be attended by BC Jugo, ...BM Santos will take the spot of MBA – EBA Borja." To be replaced with "To be attended by Sec. & Tres. Crist and BM Santos. BC Jugo will take the spot of MBA EBA Borja, and attend the MBA Meetings on his behalf as he will be on leave.

BM Provido moved to approve meeting minutes' subject to corrections being discussed in today's meeting.

Motion: BM Provido

2<sup>nd</sup>: Sec. & Treas. Cristi

All in Favor: 7 Against: None Abstain: None

### **3 EBA Reports and Updates**

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3.A Board Administrative Activity from October 1<sup>st</sup> thru April 10, 2017, were reviewed and acknowledged by Board members. Revenue tracking at the same time last year is \$13K over. In several areas we have increased and decreased, altogether we are \$13K over.

PG 22 – AS400 Printout – To date, we've spent \$122K, compared to our revenue we are at \$176K.

PG 23 – As always we track our revenue monthly (Top Section), (Middle Section) is our expenses per object class, (Bottom Section) 2018 FY Budget.

PG 24 – For informational purposes only. Our OPA Audited prior years expense per object class.

Jan/Feb/March/April/May are high revenues, September/October/November are high months. VC Ruth noted surges are due to the renewal of registration for (Jan/Feb/March/April/May) individual and (September/October/November) is due to firm (COA) license renewals.

PG 25 – BOH monthly statement (Feb/March)

PG 26 – Board approval to utilize the BOH account to have EBA Borja laptop assessment done.

Megabyte was selected vendor, they cleaned it, and the noise has stopped. Vibrates a bit during start up but, becomes more stable afterward. EBA Borja noted we would eventually have to purchase a new Laptop. Paid invoice copy is on page 27. VC Ruth noted TRMA IT personnel confirmed they could be able to provide a used computer, but it will need to be “cleaned/erased” leaving just a shell. No Programs. EBA Borja accepted the generous aspect of a used computer and noted we have programs that we could install.

BM Provido commented in the preparation of the use of our Bank of Hawaii (BOH) account; she questioned if we could get an accountant to oversee and integrate both the AS400 and BOH account to it reflects on one Profit and Loss Statement. VC Ruth said policy revision is still outstanding. BM Provido confirms once we meet on the April 20<sup>th</sup> Rules & Regulations (R&R) meeting; we can discuss. EBA Borja stated AAG Keeler advised us not to use this account until we clear rules and regs. and then adopt a policy per the use of the BOH account. VC Ruth noted we have a policy, and we just need to implement it. BM Provide noted it is something we have to discuss, do we include it in the rules and regs, or not. Could it be an appendix? BC Jugo, what is the specific word for that, in office procedures? In-house rules and regs. BM Provido noted it's more of an administrative procedure. BM Santos noted that's the purposes of the Rules and Regs. EBA Borja stated that AAG Keeler's suggestion was to put it in the Rules and Regs without specifics as I don't think it currently is in the R&R about the BOH account fund use. BC Jugo noted BM Provido's accountant recommendation would be discussed later on in the Meeting under “Old Business” Rules and Regulations. VC Ruth commented if it isn't in the Rules and Regulations it goes through the Triple-A process if it is in the Rules and Regulations it doesn't need to go through the Triple-A process. BM Provido noted, just in anticipation of that, once you do get approval, you will need to get an Accountant. EBA Borja acknowledged her concern.

PM Villanueva noted, on the last OPA report on April 11<sup>th</sup>, it stated that the account must be audited every year and reconciled monthly. BM Provido stated per law our books are auditable, we are just looking at integrating it into one report. EBA Borja confirmed we have budgeted for an outsourced accountant.

EBA Borja concludes the Administrative Section.

PG 28 – 29 Updated List of Complaints

EBA Borja noted the only difference from the March 28, 2017, meeting was as noted on the bottom PG 29 that the EBA made a determination on the PB2016-008 Ronald G. Gonzales PE vs. James (Jim)Lyon, PE and PB2016-010 Jose C. Benavente vs. Paul L. Santos, PLS – As No Merit.

VC Ruth asked why is it listed as Still Open? Sec. & Treas. Cristi questioned if EBA has notified all the parties? EBA replied no. EBA Borja stated it was mentioned in the last meeting minutes on March 28, 2017, as No Merit. And so, after this Board meeting, he will send out the letters.

BC Jugo asked if there were any concerns regarding our reporting of these files. BM Santos noted he had a concern. BC Jugo's understanding is that the EBA determine Merit or No Merit. And then it comes to the Board for concurrence. BM Santos questioned, now are we judging it or pre-judging it at this point and time? Is it too premature?

BC Jugo noted his understanding is that EBA would make the determination of Merit or No Merit first, and then it would be on to our attention. But as with anything else, we review individual applications, if EBA has a question or concern that he is not sure of I am all for helping him determine this. PM Villanueva states, EBA make the call, we make the affirmation. BC Jugo notes, If he determines it has No Merit, we will never see it unless we personally come in to review the file. VC Ruth states, maybe we should see it. BM Santos understands it should go to the Sec. & Treas. Cristi, I understand that. But for us to review it, whether we concur with his findings, I think we are already judging it. I am not too sure if that's right. VC Ruth how can we concur if it is based on only what the EBA tells us. BM Santos noted he understand's if we were a big board then certain parties can review it and recuse themselves from the voting. It'll be another set of members who will be the judge.

BC Jugo, does this warrant a committee? Sec. & Treas. Cristi noted, instead of just the Sec. & Treas. position just reviewing it, we could just circulate the file. BC Jugo, we do it for individual and firm applications. We are a small enough board where we can do that. To BC Jugo it would not be all that much more to take on individually. BM Santos's only concern is that we are the judge and the jury for cases that have Merit and not No Merit. VC Ruth noted we are concurring to cases with No Merit as he is presenting it to us. Without seeing BI Isaac's report. BM Santos questioned if we write that we concur or if it has merit Or no merit? BC Jugo notes, once that happens there's a process that we are starting off, looking at it only at a certain point, and it will just basically be a file just like an application. VC Ruth notes, if it doesn't need to come to the Board For concurrence, then he could send the letter the minute EBA says no merit.

BC Jugo suggests if it has Merit, we will all see the file. If it has No Merit, we will necessary not see it. Maybe we set up a small committee, two or three, and we look at the No Merit files as a double-check process. BM Provido noted it is a function of the Board Secretary to do so. She will have a chance to sign off on it and formally review. Informally if EBA has any questions regarding Engineering, Surveying, or Architecturally, etc., EBA can ask for guidance accordingly to make a decision. BC Jugo

notes that the Board reviews files for registrants and firms and reviewing these files, historically being no more than four or five at the most, would be easy to implement for the Board to review similarly. BM Provido notes there's no need to appoint a committee. VC Ruth confirms allowing at least one Board member in the discipline of the registrant being accused. BM Santos affirms he will be doing the most work as the majority of the complaints are of surveying. But the point BM Santos wants is to "Concur" or "Not Concur" on Merit of the case, you are already judging. BC Jugo noted it's not a review process, it's a double check.

DPW Director Leon Guerrero states if EBA decides No Merit and the complainant does not agree, they are allowed by law to ask for a hearing, correct? Board agrees. EBA clarified that complainant cannot ask for a hearing but ask to come before the Board. BC Jugo noted at any time anyone/complainant can come to bring up an issue to the Board. EBA Borja notes the Board is always open to the public so at the next Board meeting when we issue these two individuals letters they can come to the meeting and say I don't agree. BM Santos notes, they can appeal to a higher court. We allow them to vent their frustrations, but not assign a hearing.

BC Jugo notes it would be the Sec. & Treas. duty, initially, to just acknowledge the EBA decision on Merit or No Merit. Sec. & Treas. will not review the case or auditing what EBA has done. Sec. & Treas. is just receiving it. VC Ruth prefers a committee to verify the work and report to the Board that they read the file and everything looks complete. BC Jugo noted it would not be part of the EBA report; we are just circulating the file for a general review.

EBA Borja directed Board to PG 30 Complaint Flow Chart. EBA Borja, BI Isaac, and AAG Highsmith started working on a procedure to follow this regard. PM Villanueva asked when was this implemented? EBA Borja, he's been working on this since he came to the Board as there's no procedure or policy of this regard. A year-year in half ago EBA placed it on the agenda, It is not something new. VC Ruth explained to PM Villanueva that we had to create something; as the Board was being advised of complaints that they had no idea of and this was a way to set some steps out, that was a year ago. BC Jugo retracts his comments on establishing a committee, but to just circulate file as an informal process to the Merit/No Merit. VC Ruth notes we presently vote according to EBA verbal report on the claim as seeing no record of any kind, only just what the EBA presents.

EBA wants to have the Board review the flowchart and table it for the next board meeting discussion. BC Jugo directed members to the first lateral flowchart step where it notes, "Circulate to Board Members for comments and input" is what the discussion is about. BM Provido notes, this is where BM Santos seems to be having an issue with. It seems we are pre-judging the complaint even by the time it comes to the Board. BC Jugo notes this will be part of our process of the Rules and Regs so it must be addressed. VC Ruth confirms the file of complaint should be circulated to all Board Members. BC Jugo notes on the other side of the flowchart "Log-In Status Sheet/Assigned Case Number" that's

basically the process of the Sec. & Treas. position acknowledging it. Not an investigation of the claim. BM Provido notes that's within the law. Board noted.

5.A OLD BUSINESS: Liberty Perez and Mark Arceo-Superior Court Case No. SD0946-10

PG 31 – Balance Sheet showed for Liberty A Perez and Marc Arceo for informational purposes only. AAG Keeler is working on this. AAG Keeler has his way of doing things. BM Provido notes the statute of limitations, based on the case number on Mark Arceo is SD0946-10 and when payment plan had begun in Jan 2012, is well past the five-year mark. EBA Borja states AAG Keeler is checking on it.

PM Villanueva asked to review pages 28 and 29 and questioned the last section of "Status" column denotes "Open." What does "Open" mean? EBA Borja states it is open because he has not made a determination. Although a determination was made for PB2016-008 and PB2016-010 on March 28, 2017, that is when the 90-day clock starts. In the past, the Board was not able to do the work within a 90 day time period, and many cases were thrown out, so he now performs his duty at the Board Meetings so that the Board is advised.

VC Ruth notes EBA implements on the EBA Complaint List, an extension of comments, (e.g. Open - Waiting for the return from off-island, Or, Open - Pending on the Agenda, etc.) so it is plainly understood. EBA confirms will apply notes to Open Section.

5.F OLD BUSINESS: Complaints Against Robert R. Ventura, PLS

PG 34 Robert S. Ventura, PLS letter dated April 5, 2017 – Copy of letter per appendage. Ventura responded to our request and will provide an update on Joaquin N. Naputi, Juan C. Camacho, Kathleen S. Mikel and Ricky F. Santos, as well as others pending.

5.E OLD BUSINESS: Anderson, Thomas T. – Petition to Practice Surveying

PG 32 Thomas T. Anderson is a copy of the letter based on AAG Keeler's recommendation for Board review. No reply has been received by Anderson or his council as of this writing.

PG 33 Thomas T. Anderson is a copy of the letter that it references from PG 32, which is the letter generated by BM Provido in the capacity of Board Chair at that time.

5.G OLD BUSINESS: Agreement with California State for CSCS exam – Expires on June 30, 2017

PG 35 Copy of Agreement with the California State that would allow our Civil applicants to take the 2.5 Hour Civil Seismic Engineering Examination is attached for Board review. The current agreement expires in June 2017. AAG Keeler was given a copy for his assessment. DPW Leon Guerrero was advised by the Attorney General that if a contract has any monetary exchange; the rule of thumb is, it must be signed by the Attorney General and Governor of Guam. AAG Keeler will verify. BC Jugo notes these services are paid for by the applicants, although an administrative fee is assessed the applicant as well as a \$150 exam fee, which is billed to PEALS by California Department of Consumer Affairs, and paid for through PEALS contractual account.

Beginning May 2017, the National Council of Examiners for Engineering and Surveying (NCEES) will require applicants to pay exam fees directly thru NCEES. EBA Borja notes PEALS revenue and expenditure will balance as PEALS will not be assessed fees from NCEES as done in the past.

5.H OLD BUSINESS: Complaint: Ronald G. Gonzales, PE vs. Jim Lyon, PE Case #2016-008

PG 43 is EBA determination of No Merit for Ronald G. Gonzales, PE vs. Jim (Frank James) Lyon PE Complaint Case PB 2016-008, dated March 28, 2017, but not sent.

5.I OLD BUSINESS: Complaint: Jose C. Benavente vs. Paul L. Santos, PLS Case #2016-010

PG 44 is EBA determination of No Merit for Jose C. Benavente vs. Paul L. Santos PLS Complaint Case PB 2016-010, dated March 28, 2017, but not sent.

VC Ruth asked why wasn't letters released that shows No Merit? EBA Borja states he did not send out as there's confusion about the process.

VC Ruth notes what it boils down to is, the decision is whether EBA has the authority to issue No Merit without the Board even knowing about it. Or is the EBA to bring the No Merit to the Board before he sends a letter of determination? BM Provido notes, yes, that's his responsibility as the Executive Board Administrator per the law to make the call without the Board's approval. DPW Leon Guerrero noted when a decision was made by a Board, and it is challenged in court; the Board Members were not subpoenaed, the EBA is subpoenaed, as long as the Board made no action or voted on the outcome. Board affirms the decision when it has Merit.

*VC Ruth stepped out of the meeting.*

*DPW Director Leon Guerrero stepped out of the meeting.*

7.B OPEN DISCUSSION: NCARB Annual Meeting on June 22-24, 2017 in Boston, MA

PG 45 NCARB Invitation to the 2017 Annual Business Meeting - June 2017

Sec. & Treas. Cristi corrected EBA to start on items missed at Old Business at B, C, and D.

5.B Rules and Regulations Meeting April 20, 2017 3PM

BM Provido circulated a copy for review and comments.

*VC Ruth and DPW Director Leon Guerrero stepped back into the meeting.*

BM Provido states to go through quickly on areas highlighted in the April 20<sup>th</sup> Meeting. And then once Board has completed that, she will go through with a final draft form that will be used to go through the legislature. EBA Borja questioned if we would go through the professional societies before we go through the legislature. BM Santos suggests not to and to use the open public hearings as a forum for their comments and suggestions. BC Jugo noted it would be best, per BM Santos, and if changes are to be made; it would be made on their own behalf and not just the Boards'.

5.C Second Round to Amend PEALS LAW

EBA Borja notes this will follow completion of the Rules and Regulations.

VC Ruth questioned if the ICC 2009 – 2015 GBCC been placed on the agenda for review. Or would you have to attend the seminar to question it? BC Jugo notes, its not official, just an informal open forum. VC Ruth notes, If ICC is submitting to the professional societies via a luncheon, then it should be something the PEALS Board should also do when we amend our law.

5.D OPA Follow-up audit on the PEALS Board

OPA had submitted a list of items EBA Borja had to work on; was not given to the Board. He still has not put it all together. VC Ruth commented that their comments, based on the list could be suggestions to put into the Rules & Regulations. Others are already incorporated. EBA Borja states it is hard to reply to; as most of the questions are prior to his employment with PEALS. BM Provido notes, most of it is just housekeeping. EBA Borja notes yes, but it was not recorded or filed by prior EBA.



Sec. & Treas. Cristi noted, aside from the audit of the OPA, she would like to remind EBA Borja to double check on Security of Files, and the maintenance of these files as well as the security of transmission of files per government of Guam policy and advise her of his findings.

BC Jugo wanted to remind EBA Borja of the Citizen Centric Report (CCR) is a requirement as well. EBA Borja acknowledged and will send out a copy to all Board Members as soon as completed.

#### Item 6, New Business

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##### 6.A ICC 2009 – 2015 Seminars, July 19-21, 2017 at the Sheraton, GBCC Requesting for Assistance in covering \$35K

BC Jugo noted PEALS participation was given at the last Seminar, although OPA questioned us for it in 2009. But, BC Jugo says it is part of the PEALS mandate to help our membership become more informed about Building Codes. BM Provido notes donation was issued through a separate PEALS account and was kept separate from the Board. Resources collected in this account were originally for the PEALS 50<sup>th</sup> Anniversary but, became an umbrella for the different board societies. So it is a clear difference from what happened then to now.

*BM Santos stepped out of the meeting.*

BC Jugo likens the donation to the purchase of study guides, or seminars of people taking the exam, study reference tools, learning the building code is an important part of learning process. It can be construed to be part of our mandate, and has no objections to it, as long as we all agree to it as a Board. PM Villanueva notes we should just budget it for next year. BC Jugo confirms it was not allocated in the Budget. BM Provido does not see the collaboration between this seminar and education.

Sec. & Treas. Cristi notes this is an integral part of their exam whether they be for a civil or structural discipline. BC Jugo states for PE applicants, they are going to have to know the building code. This is directly related to that.

*BM Santos stepped back into the meeting.*

BM Provido states she wants a confirmation we are not overstepping our mandate by releasing a monetary donation, are overlapping our mandate? BM Provido also notes that ICC will be generating profit revenue from these donations; is the Board going to be reimbursed? It's a good fundraiser for the professional societies, and she is all for that, but not for the PEALS Board. EBA Borja is requesting for a \$5K assistance. BC Jugo notes the seminar is in July; we can discuss later and see if we will move forward or not.

*PM Villanueva stepped out of the meeting.*

EBA Borja will confer on the advice of AAG Keeler's opinion.

*PM Villanueva returned to the meeting.*

If AAG Keeler's opinion is circulated via email, VC Ruth wants it stated that making changes to the minutes after the meeting via email sent is not right. And passing motions via email is not right either. BC Jugo noted, that if this becomes an action of the Board, it will be done at the next Board meeting. If an early meeting must be called upon, so be it. Board has agreed to table this discussion.

7.A NCEES Western Zone Meeting on May 18-20, 2017 in Denver CO

To be attended by BC Jugo, Sec. & Treas. Cristi and BM Santos

7.B NCARB Annual Meeting on June 22-24, 2017 in Boston MA

To be attended by VC Ruth, BM Provido, EBA Borja, and DPW Director Leon Guerrero to  
Take the spot of Public Member Villanueva

7.C NCEES Annual Meeting in August 23-26, 2017 in Miami, Florida

Invitation on PG 46 for Board review. PM Villanueva has been invited as a first-time member, and 3 others are invited to attend and determined later.

7.D PEALS FY207 Proposed Board Meeting Schedule

July 25, 2017 – Tuesday, 3 PM  
September 12, 2017 - Tuesday, 3 PM

7.E Statement of Disclosure for Board Members due on Friday, April 21, 2017

All have submitted to the Guam Election Commission with the exception of the DPW Director Leon Guerrero; which will be done accordingly.

7.F FY2018 Budget Meeting at BBMR on April 27, 2017 at 10AM

EBA Borja notes Board is invited to attend. EBA was not advised on what BBMR wanted to discuss. In the past, it was just a preview of our object classes, and if the Legislature wants to call us,

they want to know that we are prepared to justify and support our budget numbers. FY 18 Budget Breakdown is listed on PG 23, Bottom Section, \$342K. BC Jugo and Sec. & Treas. Cristi has confirmed they will be attending with EBA Borja. BC Jugo questioned if the PEALS Board was assigned a date for a Budget Hearing at the legislature? EBA Borja stated no. If there is one, BC Jugo wants VC Ruth to be present.

#### 7.G NSPE President Kodi J. Verhalen visiting Guam June 6-7, 2017

BC Jugo noted the NSPE had made an official request to meet the licensing board; BC Jugo and Sec. & Treas. Cristi will attend on behalf of the PEALS Board.

#### 8.0 Public Comment

Kristine A. Harding, NCARB President, took this opportunity to address the Guam Board. Thanking the Board, the opportunity to attend the meeting.

Other Topics discussed:

- NCARB will be elevating the role of the Public Member
- NCARB launches second alternative path to Certification
- NCARB Offers Alternative Path to Licensure for Experienced Professionals
- Five Architecture Programs Accepted to NCARB's IPAL Initiative

In closing, Armstrong wanted to again thank the Board for allowing them to be here. "You have been kind enough to allow us to sit here and observe. You are so faithful in coming to our meetings; it is the least we can do." Armstrong wanted to assure PM Villanueva they have funds for Public Member to attend our regional summits and annual meetings.

BC Jugo thanked Kristine A. Harding, NCARB President, Michael Armstrong, NCARB CEO and Josh C. Batkin, Director, Council Relations for coming to Guam.

#### 9.0 DPW Permit & DLM Survey Map Review

BC Jugo motion to review on our own and report any discrepancy or issues we have to EBA Borja and continue that in the next meeting we can.

Motion: BC Jugo

2<sup>nd</sup>: Sec. & Treas. Cristi

All in Favor: 7 Against: None Abstain: None

10. Adjournment of Meeting

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Moved to adjourned by VC Ruth at 11:13AM.

Motion: VC Ruth

2<sup>nd</sup>: BM Santos

All in Favor: 7 Against: None Abstain: None


Happy Easter was announced by Sec. & Treas. Crisit to all present!!!!


With no further comments, the meeting adjourned at 11:13 AM.

/mnv

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Approved by:

  
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Gabriel A. Jugo, PE SE Board Chair  
7/28/2017

 08.04.2017  
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Maria Elizabeth V Crisi, PE,  
Board Secretary/Treasurer