

CHAPTER 2

Educational Policies and Standards

SUBCHAPTER I

Teacher Certification

[REPEALED]

Editor's note: All sections in subchapters I, II, IV, and V of this chapter were repealed by PL 8-132, § 1.

SUBCHAPTER II

Education Standards

[REPEALED]

Editor's note: All sections in subchapters I, II, IV, and V of this chapter were repealed by PL 8-132, § 1.

SUBCHAPTER III

Special Education

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SUBCHAPTER IV

School Year and Attendance

[REPEALED]

Editor's note: All sections in subchapters I, II, IV, and V of this chapter were repealed by PL 8-132, § 1.

SUBCHAPTER V

Nonpublic Schools

[REPEALED]

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SUBCHAPTER I

Teacher Certification

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SUBCHAPTER II

Education Standards

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SUBCHAPTER III

Special Education

§ 231. Short title.

This subchapter shall be known and may be cited as the “Federated States of Micronesia Special Education Act of 1993.”

Source: COM PL 7-55 § 1; TT Code 1980, 41 TTC 201; PL 8-21 § 1.

§ 232. Free Appropriate Public Education.

(1) *Statement of Policy.* The Congress of the Federated States of Micronesia, recognizing the obligation of the Federated States of Micronesia under section 109 of title 1 of this code that free elementary and secondary education, through grade 12, shall be provided throughout the Federated States of Micronesia, and further recognizing the obligation of the Federated States of Micronesia to provide full educational opportunities to all children which will enable them to lead fulfilling and productive lives, hereby declares that it is the policy of the Federated States of Micronesia and the purpose of this subchapter to provide a Free Appropriate Public Education (FAPE) and related services for eligible children with disabilities, age 0 through 21, and that eligible children with disabilities shall primarily receive special education and related services, insofar as appropriate, in regular classrooms and regular schools or other natural environments, which provide education and interaction with non-disabled children, that are offered by the Federated States of Micronesia through each State Department of Education and other public agencies.

(2) *Exceptions to FAPE.* The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(a) *Incarcerated Youth.* Students age 18 through 21 who, in the last educational placement prior to their incarceration in an adult correctional facility:

- (i) Were not actually identified as being a child with a disability under this Act; and
- (ii) Did not have an IEP under the provisions of this Act.

(b) The exception in paragraph (2)(a) of this section does not apply to students with disabilities, aged 18 through 21, who:

- (i) Had been identified as a child with disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
- (ii) Did not have an IEP in their last educational setting, but who had actually been identified as a "child with a disability" under the provisions of this Act.

(c) Students with disabilities who have graduated from high school with a diploma.

(d) Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with requirements of this Act.

(3) *Accessibility.* The Secretary and each State Director of Education shall encourage all school facilities to become fully accessible to students with disabilities.

Source: COM PL 7-55 § 2; TT Code 1980, 41 TTC 202; PL 8-21 § 2; PL 14-8 § 1.

Cross-reference: FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the FSM Congress are found in title 3 of this code.

§ 233. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Children with disabilities” includes those individuals from birth through age 21 who are evaluated as having mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple impairments, and who because of those impairments need special education and related services.

(2) “Free Appropriate Public Education (FAPE)” the term free appropriate public education or FAPE means special education and related services that:

(a) Are provided at public expense, under public supervision and direction, and without charge to parents or students;

(b) Meet special education program standards and regulations established by the Department of Health Education and Social Affairs (DHESA), including the requirements of this part;

(c) Include preschool, elementary school, or secondary school education in each State; and

(d) Are provided in conformity with an individualized education program (IEP), and

(e) Are provided for eligible students who have been suspended or expelled from school.

(3) “Secretary” means the Secretary of the Department of Education.

(3) “Special education” means instructional or other services necessary to assist children with disabilities. Special Education is specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted:

- (a) in the classrooms;
- (b) in the home;
- (c) in hospitals and institutions;
- (d) in other settings; and
- (e) in physical education.

Source: COM PL 7-55 § 3; TT Code 1980, 41 TTC 203; PL 8-21 § 3; PL 14-8 § 2.

§ 234. Administration.

(1) There is hereby established in the Department of Education a Special Education Program which shall be headed by a Program Specialist, who will be qualified by education, training, and experience to take responsibility for and give direction to the programs of the Federated States of Micronesia relating to the education of children with disabilities.

(2) The Secretary of Education shall establish and make such studies, surveys, evaluations, policies, and rules and regulations as are necessary to carry out the provisions of this chapter.

(3) The Secretary of Education shall submit to the President and the Congress of the Federated States of Micronesia the special education annual program plan and the fund status and performance report at such time as they are submitted to the United States Office of Education as required by United States PL No. 101-476, Individuals with Disabilities Education Act.

Source: COM PL 7-55 § 4; COM PL 7-113 § 1; TT Code 1980, 41 TTC 204; PL 8-21 § 4.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 235. State responsibility.

On or before July 1 of each year, each State shall report to the Secretary of Education the extent to which it is

providing the special education for children with disabilities necessary to implement this subchapter. The report shall detail the means which the State uses to provide for the free appropriate special education of children with disabilities.

Source: COM PL 7-55 § 5; TT Code 1980, 41 TTC 205; PL 8-21 § 5.

§ 236. Procedure to ensure efforts.

The Secretary of Education shall establish, in cooperation with the Secretary of the Department of Health Services and each State Director of Education, procedures to ensure the ongoing education, identification, location and evaluation of children with disabilities.

Source: COM PL 7-55 § 6; TT Code 1980, 41 TTC 206; PL 8-21 § 6.

§ 237. Funding; Authorization.

There is hereby authorized an annual appropriation from the General Fund of the Federated States of Micronesia as may be necessary to carry out the provisions of this subchapter. The Secretary of Education shall administer the expenditures of funds appropriated pursuant to this subchapter as set out in the annual program plan for the purposes set forth herein.

Source: COM PL 7-55 § 7; COM PL 7-113 § 2; TT Code 1980, 41 TTC 207; PL 8-21 § 7.

SUBCHAPTER IV

School Year and Attendance

[REPEALED]

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SUBCHAPTER V

Nonpublic Schools

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