
A BILL FOR AN ACT

To amend sections 102 and 109 of title 40 of the Code of the Federated States of Micronesia (Annotated), for the purpose of clarifying the authority of the Secretary of Education to regulate the creation, formation and operation of private schools in the Federated States of Micronesia in the interest of public safety and convenience, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 102 of title 40 of the Code of the
2 Federated States of Micronesia (Annotated), is hereby amended to
3 read as follows:

4 "Section 102. Definitions.

5 As used in this chapter:

6 (1) "Accreditation" means the process of evaluating a
7 school in terms of meeting the required minimum
8 standards and the acknowledgment thereof by the FSM
9 National Government through the issuance of an FSM
10 Certificate of Accreditation.

11 (2) "Board of Education" means each of the four groups
12 of persons having managerial, supervisory, or advisory
13 powers concerning education, as created, appointed and
14 confirmed in office by the duly elected officials of the
15 States of Chuuk, Kosrae, Pohnpei and Yap.

16 (3) "Chief State School Officer" means the State
17 Director of Education or other highest ranking educator
18 with day-to-day administrative authority and control

1 over the educational system of each State.

2 (4) "Children with disabilities" means those
3 individuals from birth through age 21 who are evaluated
4 as having mental retardation, hearing impairments
5 including deafness, speech or language impairments,
6 visual impairments including blindness, serious
7 emotional disturbance, orthopedic impairments, autism,
8 traumatic brain injury, other health impairments,
9 specific learning disabilities, deaf-blindness, or
10 multiple impairments, and who, because of those
11 impairments, need special education and related
12 services.

13 (5) "College of Micronesia-FSM" means an institution of
14 higher education located in the FSM and established in
15 1977 by P.L. No. 7-29 of the Seventh Congress of
16 Micronesia.

17 (6) "Compact" means the Compact of Free Association
18 between the Federated States of Micronesia and the
19 United States of America.

20 (7) "Congress" means the Congress of the Federated
21 States of Micronesia.

22 (8) "Department" means the Department of Education of
23 the Federated States of Micronesia.

24 (9) "Elementary school" means an institution which
25 imparts teaching and learning from grades one (first

1 grade) through eight (eighth grade).

2 (10) "FSM" means the Federated States of Micronesia.

3 (11) "FACSSO" means the FSM Association of Chief State
4 School Officers.

5 (12) "Home learning" means a private form of education
6 or course of study administered by parents who for
7 personal or religious reasons choose not to send their
8 children to a public or private school but as an
9 alternative provide education within a home setting.

10 (13) "National Government" means the National
11 Government of the Federated States of Micronesia.

12 (14) "Person" means an individual, corporation, firm or
13 any other entity or association existing under or
14 authorized by law.

15 (15) "Post-secondary education" means an attendance at
16 an institution of higher education in the FSM or abroad.

17 (16) "Preschool" means any nursery school, kindergarten
18 or special program attended by children during the
19 period from infancy to age five or six, preceding
20 attendance at elementary school.

21 (17) "President" means the President of the Federated
22 States of Micronesia.

23 (18) "School" means an FSM accredited public or private
24 institution of learning at the elementary or secondary
25 level, including a school with a religious affiliation.

1 For the purpose of section 109 of this title, a "school"
2 is understood to include post-secondary school that is
3 not chartered directly by Congress. Such post-secondary
4 school shall be subject to accreditation by the
5 Secretary.

6 (19 "Secondary school" means an institution which
7 imparts teaching and learning beyond the elementary
8 level up to but not including college or university
9 level.

10 (20) "Secretary" means the Secretary of the Department
11 of Education of the Federated States of Micronesia.

12 (21) "Special education" means instructional or other
13 services necessary to assist children with
14 disabilities. Special education is specifically
15 designed instruction, at no cost to the parents, to meet
16 the unique needs of a child with a disability, including
17 instruction conducted:

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

23 (22) "State" means a State within the Federated States
24 of Micronesia.

25 (23) "State Director of Education" means the individual

1 who is appointed by the Governor of the State and
2 granted thereby the direct authority to manage and
3 control the daily affairs of the State Department of
4 Education.

5 (24) "Teacher" means a classroom instructor who has
6 attained the FSM National Government teacher
7 certification standards and whose primary function is to
8 impart knowledge to students in schools.

9 (25) "Teacher certification" means the issuance of a
10 certificate to a preschool, elementary, or secondary
11 classroom instructor who has met the National Government
12 qualification requirements set forth in section 105 of
13 this chapter."

14 Section 2. Section 109 of title 40 of the Code of the
15 Federated States of Micronesia (Annotated), is hereby amended to
16 read as follows:

17 "Section 109. Private schools.

18 (1) The importance of private schools to the
19 educational development of the Micronesian people is
20 hereby acknowledged and commended.

21 (2) Any person or persons desiring to establish and
22 operate a private school, including a school with a
23 religious affiliation, within the Federated States of
24 Micronesia shall, prior to the establishment thereof,
25 make written application for a charter to the Secretary.

1 (a) The application shall be signed by the applicant or
2 applicants and reviewed by the State Director of
3 Education and the State Board of Education of the State
4 in which the school is to be located.

5 (b) The application shall include:

6 (i) the full names of the persons establishing and
7 operating the school, their qualifications, their
8 international affiliations, and their entry permit
9 numbers, if applicable;

10 (ii) the names and qualifications of the school's
11 instructors and administrators, and their entry permit
12 numbers, if applicable;

13 (iii) the location of the school and the facilities
14 erected upon the site;

15 (iv) the course of instruction and the language in
16 which instruction is to be given;

17 (v) the criteria applicable to accreditation of all
18 primary and secondary schools; and

19 (vi) a complete financial statement, including but not
20 limited to, sources of funding, capital reserves, if
21 any, and a proposed budget for the pending school year,
22 detailing how the school plans to meet the anticipated
23 costs of operation; and

24 (vii) such other information as the Secretary may
25 require, pertinent to whether the operation of the

1 school will serve the best interests of the Micronesian
2 people. The State Directors of Education shall review
3 applications and make recommendations to the respective
4 State Governor for concurrence.

5 (3) Upon receipt and approval of the application by the
6 Secretary, the Secretary shall issue to the person or
7 persons applying therefore a charter for up to 15 years
8 duration in the form of a mutual agreement between the
9 chartered school and the FSM, authorizing the
10 establishment of the school, and an annual license to
11 operate the school, renewable by the Secretary upon a
12 finding by the State Director of Education that the
13 school is operating consistent with the terms of its
14 charter and other applicable regulations.

15 (4) No private school shall be established, or allowed
16 to continue to operate as such, except in conformity
17 with this section.~~[; PROVIDED however, that any private~~
18 ~~school existing in the Federated States of Micronesia~~
19 ~~under a valid charter on the effective date of this act~~
20 ~~shall be deemed to have complied with requirements set~~
21 ~~forth herein and shall be granted a charter~~
22 ~~automatically.]~~

23 (5) In enforcing this section, the Secretary shall have
24 authority to develop a national qualification framework,
25 and more specifically, examine and evaluate the

1 qualification of teaching faculty and school support
2 staff, determine the quality, suitability and safety of
3 school facilities and equipment, and require the
4 submission of any additional information or
5 justification in support of an application.

6 (6) The Secretary may order the closure of any school
7 that is not in compliance with this section.

8 ~~[(5)]~~(7) Any person or persons who knowingly permit or
9 engage in the establishment and operation of a private
10 school within the FSM in violation of applicable laws or
11 regulations, shall be guilty of a violation of this
12 section and upon conviction thereof, shall be fined not
13 more than \$500.

14 ~~[(6)]~~(8) The Secretary shall withhold funds for failure
15 to comply with the provisions of this chapter, and
16 shall, after a hearing, suspend or revoke a charter upon
17 a finding that the school has operated contrary to the
18 representations contained in its charter application, or
19 has operated contrary to the policies and provisions of
20 this chapter.”

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1 Section 3. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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5 Date: 5/22/19 Introduced by: /s/ Florencio S. Harper
6 Florencio S. Harper
7 (by request)

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