
A BILL FOR AN ACT

To amend sections 102 and 109 of title 40 of the Code of the Federated States of Micronesia (Annotated) a amended, 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) as amended, is hereby
3 amended to 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
15 the 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

1 with day-to-day administrative authority and control
2 over the educational system of each State.

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

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

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

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

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

25 (9) "Elementary school" means an institution which

1 imparts teaching and learning from grades one (first
2 grade) through eight (eighth grade).

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

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

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

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

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

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

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

23 (17) "President" means the President of the Federated
24 States of Micronesia.

25 (18) "School" means an FSM accredited public or

1 private institution of learning at the elementary or
2 secondary level, including a school with a religious
3 affiliation. For the purpose of section 109 of this
4 title, a "school" is understood to include post-
5 secondary school that is not chartered directly by
6 Congress. Such post-secondary school shall be subject
7 to accreditation by the Secretary.

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

12 (20) "Secretary" means the Secretary of the Department
13 of Education of the Federated States of Micronesia.

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

20 (a) in classrooms;

21 (b) in the home;

22 (c) in hospitals and institutions;

23 (d) in other settings; and

24 (e) in physical education.

25 (22) "State" means a State within the Federated States

1 of Micronesia.

2 (23) "State Director of Education" means the
3 individual who is appointed by the Governor of the
4 State and granted thereby the direct authority to
5 manage and control the daily affairs of the State
6 Department of Education.

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

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

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

19 "Section 109. Private schools.

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

23 (2) Any person or persons desiring to establish and
24 operate a private school, including a school with a
25 religious affiliation, within the Federated States of

1 Micronesia shall, prior to the establishment thereof,
2 make written application for a charter to the
3 Secretary.

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

8 (b) The application shall include:

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

13 (ii) the names and qualifications of the
14 school's instructors and administrators, and their
15 entry permit numbers, if applicable;

16 (iii) the location of the school and the
17 facilities erected upon the site;

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

20 (v) the criteria applicable to
21 accreditation of all primary and secondary schools; and

22 (vi) a complete financial statement,
23 including but not limited to, sources of funding,
24 capital reserves, if any, and a proposed budget for the
25 pending school year, detailing how the school plans to

1 meet the anticipated costs of operation; and

2 (vii) such other information as the Secretary
3 may require, pertinent to whether the operation of the
4 school will serve the best interests of the Micronesian
5 people. The State Directors of Education shall review
6 applications and make recommendations to the respective
7 State Governor for concurrence.

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

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

1 (5) In enforcing this section, the Secretary shall
2 have authority to examine and evaluate the
3 qualification of teaching faculty and school support
4 staff, determine the quality, suitability and safety of
5 school facilities and equipment, and require the
6 submission of any additional information or
7 justification in support of an application.

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

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

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

