

**TITLE 40
EDUCATION**

CHAPTERS

- 1 Educational System (§§ 101-114)**
- 2 Educational Policy and Standards (§§ 231-237)**

SUBCHAPTERS

- I Teacher Certification [REPEALED]**
 - II Education Standards [REPEALED]**
 - III Special Education (§§ 231-237)**
 - IV School Year and Attendance [REPEALED]**
 - V Nonpublic Schools [REPEALED]**
- 3 Student Assistance (§§ 321-383)**
- SUBCHAPTERS**
- I Student Loan Fund [REPEALED]**
 - II General Assistance (§§ 321-323)**
 - III Student Loan Revolving Fund (§§ 324-334)**
 - IV Continental Airlines Scholarship Program (§ 335)**
 - V Fisheries and Maritime Training Programs (§ 371)**
 - VI National Merit Scholarship Program (§§ 381-383)**
- 4 College of Micronesia (§§ 401-420)**
 - 5 Library of the Congress of Micronesia (§§ 501-505)**
 - 6 Aid to Nonpublic Schools Fund (§§ 601-606)**
 - 7 College of Micronesia—FSM (§§ 701-734)**

CHAPTER 1
Educational System

SECTIONS

- § 101. Policy and purposes.
- § 102. Definitions.
- § 103. Powers.
- § 104. Compulsory education; Attendance; Failure to send a child to school; School year.
- § 105. Teacher certification.
- § 106. Gifted and talented students.
- § 107. Procedures to ensure education for children with disabilities.
- § 108. Accreditation of elementary and secondary schools.
- § 109. Private schools.
- § 110. National Curriculum Minimum Standards.
- § 111. Certification of home learning programs.
- § 112. Gifts, grants; Requests for funding.
- § 113. FACSSO.
- § 114. Regulations.

Editor's note: The former subchapter I, §§ 101-118, "Trust Territory Educational System", of chapter 1 was repealed by PL 6-45, § 1. All sections of subchapter II, §§ 121-128 "Federated States of Micronesia Educational System" were repealed by PL 8-132, § 1.

§ 101. Policy and purposes.

It is hereby declared to be the policy of the Federated States of Micronesia to provide for a decentralized educational system in the Federated States of Micronesia which shall enable the citizens of the Federated States of Micronesia to participate fully in the development of the islands as well as to become familiar with the Pacific community and the world. To this end, the purpose of education in the Federated States of Micronesia shall be to develop its citizens in order to prepare them for participation in self-government and economic and social development; to function as a unifying agent; to bring to the people a knowledge of their islands, the economy, the government, and the people who inhabit the islands; to preserve Micronesian culture and traditions; to convey essential information concerning health, safety, and protection of the island environment; and to provide its citizens with the social, political, professional and vocational skills required to develop the Nation.

Source: PL 8-132 § 2.

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.

TITLE 40 - EDUCATION

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

§ 102. Definitions.

As used in this chapter:

- (1) “Accreditation” means the process of evaluating a school in terms of meeting the required minimum standards and the acknowledgment thereof by the FSM National Government through the issuance of an FSM Certificate of Accreditation.
- (2) “Board of Education” means each of the four groups of persons having managerial, supervisory, or advisory powers concerning education, as created, appointed and confirmed in office by the duly elected officials of the States of Chuuk, Kosrae, Pohnpei and Yap.
- (3) “Chief State School Officer” means the State Director of Education or other highest ranking educator with day-to-day administrative authority and control over the educational system of each State.
- (4) “Children with disabilities” means 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.
- (5) “College of Micronesia—FSM” means an institution of higher education located in the FSM and established in 1977 by P.L. No. 7-29 of the Seventh Congress of Micronesia.
- (6) “Compact” means the Compact of Free Association between the Federated States of Micronesia and the United States of America.
- (7) “Congress” means the Congress of the Federated States of Micronesia.
- (8) “Department” means the Department of Education of the Federated States of Micronesia.
- (9) “Elementary school” means an institution which imparts teaching and learning from grades one (first grade) through eight (eighth grade).
- (10) “FSM” means the Federated States of Micronesia.
- (11) “FACSSO” means the FSM Association of Chief State School Officers.
- (12) “Home learning” means a private form of education or course of study administered by parents who for personal or religious reasons choose not to send their children to a public or private school but as an alternative provide education within a home setting.
- (13) “National Government” means the National Government of the Federated States of Micronesia.
- (14) “Person” means an individual, corporation, firm or any other entity or association existing under or authorized by law.
- (15) “Post-secondary education” means an attendance at an institution of higher education in the FSM or abroad.
- (16) “Preschool” means any nursery school, kindergarten or special program attended by children during the period from infancy to age five or six, preceding attendance at elementary school.
- (17) “President” means the President of the Federated States of Micronesia.
- (18) “School” means an FSM accredited public or private institution of learning at the elementary or secondary level, including a school with a religious affiliation.
- (19) “Secondary school” means an institution which imparts teaching and learning beyond the elementary level up to but not including college or university level.

TITLE 40 - EDUCATION

(20) “Secretary” means the Secretary of the Department of Education of the Federated States of Micronesia.

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

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

(22) “State” means a State within the Federated States of Micronesia.

(23) “State Director of Education” means the individual who is appointed by the Governor of the State and granted thereby the direct authority to manage and control the daily affairs of the State Department of Education.

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

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

Source: PL 8-132 § 3, modified.

§ 103. Powers.

(1) The Secretary of Education shall have the authority to administer and coordinate the educational system of the Federated States of Micronesia consistent with the National powers set forth in the FSM Constitution to do the following:

- (a) Promote education by setting minimum standards for educational administration, programs, and facilities;
- (b) Coordinate efforts to obtain foreign assistance for the States and to distribute foreign aid for education in an equitable manner which will provide the maximum benefit to the students of the FSM;
- (c) Provide technical assistance to the States concerning educational administration, programs, facilities, and training; and
- (d) Coordinate efforts which seek to meet the needs of FSM students in the area of post-secondary education, including FSM students at home and abroad, scholarships, and transfers among colleges.

(2) The Secretary of Education shall advise the Chairperson of the Board of Regents of the College of Micronesia-FSM in educational matters, to include the following:

- (a) The educational needs and abilities of student classes or age groups advancing toward post-secondary education;
- (b) FSM manpower requirements which might be met through training programs at the College of Micronesia-FSM;
- (c) Opportunities and programs to transfer FSM students to specialized programs in other colleges; and

TITLE 40 - EDUCATION

(d) Problems which inhibit efforts to meet FSM manpower needs, such as the causes of failure of students in completing their training or failure in returning to Micronesia after completing their training.

(3) The Secretary shall communicate and consult with the members of the State Boards of Education, for the purpose of promoting education, setting minimum standards, providing technical assistance, coordinating educational services, building consensus, and otherwise assisting the Boards of Education in the performance of their duties.

(4) The Secretary shall have the administrative authority to implement the provisions of this title, including the authority to issue reports, prepare a National educational plan, establish temporary committees for periods of up to two years to conduct studies and make recommendations, prepare budgets and administer funds, engage in litigation, issue guidelines and procedures, advance the interest of FSM students living abroad, act upon such other educational matters as may be assigned to the Secretary by the President or by law, and undertake any other educational activities reasonable and necessary to accomplish the purposes of this title and contribute to the well-being of the FSM.

Source: PL 8-132 § 4.

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.

Case annotations:

Professional Services Clause

The Constitution vests the nat'l gov't with power to act concerning health care and may place some affirmative health care obligations on it. *Manahane v. FSM*, 1 FSM R. 161, 172 (Pon. 1982).

Primary responsibility, perhaps even sole responsibility, for affirmative implementation of the Professional Services Clause, FSM Const. art. XIII, § 1, must lie with Congress. *Carlos v. FSM*, 4 FSM R. 17_29 (App. 1989).

The Professional Services Clause of the Constitution demands that when any part of the nat'l gov't contemplates action that may be anticipated to affect the availability of education, health care or legal services, the nat'l officials involved must consider the right of the people to such services and make a reasonable effort to take "every step reasonable and necessary" to avoid unnecessarily reducing the availability of the services. *Carlos v. FSM*, 4 FSM R. 17, 30 (App. 1989).

Since the Constitution's Professional Services Clause is a promise that the nat'l gov't will take every step "reasonable and necessary" to provide health care to its citizens, a court should not lightly accept a contention that 6 FSMC 702(4), which creates a \$20,000 ceiling of governmental liability, shields the gov't against a claim that FSM gov't negligence prevented a person from receiving necessary health care. *Leeruw v. FSM*, 4 FSM R. 350, 362 (Yap 1990).

TITLE 40 - EDUCATION

Art. XIII, § 1 is a general provision that recognizes the right of the people to education, health care, and legal services. It does not act as an exclusive duty to ensure the availability of attorney services in the FSM, and it does not prohibit a state from administering its own bar. *Berman v. Santos*, 7 FSM R. 231, 237 (Pon. 1995).

§ 104. Compulsory education; Attendance; Failure to send a child to school; School year.

(1) *Compulsory education.* Education shall be provided and shall be compulsory for all children, including children with disabilities, from first grade through graduation from the eighth grade, or until the age of 14 years.

(2) *Attendance.* Attendance at school shall be required of all children between the ages of six and 14 or until completion of the eighth grade, unless excluded from school or exempted from attendance for sickness or behavioral problems as determined by the appropriate State authorities.

(a) For the purpose of beginning school, a child shall be admitted in the first grade at the beginning of the school year if he has attained or will have attained the age of six, either on or before December 31 of the calendar year in which the school year commences, or as of the date of the commencement of the school year, whichever date is selected by the State Director of Education.

(b) A State legislature may determine a later age for starting mandatory education, provided that children whose parents wish to enroll them at the National standard age of six years are not restricted from doing so.

(3) *Failure to send a child to school.* Any person who knowingly permits a child who is under his control to be absent from school, or who knowingly prevents any child from attending school during the instructional period, for all or any significant part of a day, unexcused and in violation of applicable laws or regulations, is in violation of this section.

(a) The States may impose such penalties as each deems appropriate for violations of this section.

(b) Good cause for absences shall be determined by State authorities and may include physical and medical infirmities, family or social responsibilities, and disruptive or violent behavior.

(4) *School year.* The school year in the Federated States of Micronesia shall consist of not less than 180 days of instructional days or an equivalent of no fewer than 650 hours of classroom instruction for first and second graders and no fewer than 765 hours of classroom instruction for third through twelfth graders.

Source: PL 8-132 § 5, modified.

§ 105. Teacher certification.

(1) *Certificate required.* No person shall serve as a teacher in any elementary or secondary school within the Federated States of Micronesia, except at the post-secondary level, for a period exceeding 90 days without first having obtained a National teacher certificate from the Department. The certificate shall be issued without cost to the teacher, in such form as the Secretary determines. The qualification requirements for such certification shall be established by the Secretary in cooperation and consultation with the state Directors of Education.

(a) Upon a finding of good cause shown, the Secretary of Education may, on an individual basis, issue a temporary waiver of the certification requirement herein, but in no case shall such waiver exceed a period of one year.

TITLE 40 - EDUCATION

(2) *Existing certificates remain in effect.* Notwithstanding any other provision of law to the contrary, certificates issued to teachers in the Federated States of Micronesia pursuant to laws in effect prior to the effective date of this act shall remain in effect until they expire, at which time the provisions of this act and regulations promulgated pursuant thereto, shall control.

(3) *Revocation or suspension.* Any certificate issued pursuant to this chapter may be revoked or suspended by the Secretary if he determines that the teacher is not in compliance with the requirements of this chapter. Such revocation or suspension proceedings shall comply with the procedures for agency action set forth in sections 108 through 110 of title 17 of this code, or with such other administrative procedures as may be provided by subsequent enactment.

(4) *Assurance; Penalty.* Each State Director of Education shall ensure that all teachers, at both public and private schools in the Federated States of Micronesia, shall be appropriately certified and in possession of a valid teacher certificate as required. Upon a finding, after notice and a hearing conducted consistent with the provisions of section 109 of title 17 of this code, that any person has served as a teacher without a valid certificate issued under this chapter, the FSM Secretary of Education may withhold or withdraw accreditation, under section 108 of this chapter, of the school where such person has served.

Source: PL 8-132 § 6.

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.

Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

§ 106. Gifted and talented students.

(1) The Secretary shall establish, in cooperation and consultation with the State Directors of Education, programs to identify and encourage students who demonstrate an extraordinary ability to learn.

(2) Educational programs for talented and gifted children shall be designed and implemented, as appropriate, to assist these children to take advantage of especially demanding and challenging educational programs and opportunities in Micronesia and abroad.

(3) In designing educational programs for the talented and gifted, the Secretary and the State Directors will seek to maintain a balance between Micronesian culture and tradition, and international or non-Micronesian learning and technologies, so that the benefits of exceptional opportunities do not come at the expense of cultural alienation.

Source: PL 8-132 § 7.

§ 107. Procedures to ensure education for children with disabilities.

(1) The Secretary shall establish, in cooperation and consultation with the State Directors of Education and Health Services of each State, a procedure to ensure the ongoing identification, diagnosis, certification, and education of children with disabilities.

(2) These procedures will be consistent with the policies and requirements of the FSM Special Education Act of 1993.

(3) These procedures will be designed to provide access to a reasonable, appropriate, and economical elementary and secondary education for children with disabilities, through graduation from grade 12 or age 21.

(4) Nothing in this section shall be construed or deemed to create or impose any duty, obligation, or liability whatsoever, either financial or otherwise, on the States to provide or finance an education for any person beyond the territory and borders of the Federated States of Micronesia.

Source: PL 8-132 § 8.

Cross-reference: The provisions of PL 8-21, the FSM Special Education Act of 1993 is codified in subchapter III of chapter 2 of this title.

§ 108. Accreditation of elementary and secondary schools.

(1) *Criteria for accreditation.* Criteria for accrediting elementary and secondary schools in the Federated States of Micronesia shall be established by the Secretary of the Department of Education in cooperation and consultation with the State Directors of Education, and shall include those factors necessary to provide an adequate classroom environment conducive to learning, including but not limited to the following:

- (a) Philosophy, goals and objectives;
- (b) Organization;
- (c) Staff and teachers;
- (d) School plant and physical facilities;
- (e) Library;
- (f) Student counseling services;
- (g) Curricular program;
- (h) Co-curricular program;
- (i) Community and parent involvement;
- (j) Finance;
- (k) Student-teacher ratio; and
- (l) Compliance with the minimum standards established by and under this act.

(2) *Accreditation committee.* An accreditation committee may be established by the Secretary to evaluate elementary and secondary schools for accreditation purposes.

- (a) If established, this committee may be temporary, intermittent, or standing.
- (b) The accreditation committee shall recommend to the Secretary whether a secondary school meets the approved accreditation standards or not.
- (c) A recommendation to issue a certificate of accreditation will be made for those elementary and secondary schools meeting the accreditation standards.
- (d) A recommendation for technical assistance will be made for those elementary and secondary schools not meeting the accreditation standards.

TITLE 40 - EDUCATION

(3) *Certificate of accreditation.* The Secretary shall issue a National Certificate of Accreditation to respective elementary and secondary schools which substantially comply with accreditation standards, and which have a plan or program in effect to remedy any defects or shortcomings within an agreed upon period of time, based on appropriate recommendations from the accreditation committee.

(4) *National-State consultation.* The Secretary shall consult with the respective State Directors of Education for appropriate technical assistance to be provided by both National and State Governments to the respective elementary and secondary schools based on appropriate recommendations from the accreditations committee.

(5) *National Special Certificate of Achievement.* The Secretary shall issue a National Special Certificate of Achievement to elementary and secondary schools which comply with or exceed all FSM accreditation standards.

(6) *Contingency as incentive.* In order to provide an incentive for the improvement of schools, the Secretary may make eligibility for certain categories of scholarship and other funds contingent upon obtaining certification or special certification, or upon making timely measurable progress toward obtaining certification.

Source: PL 8-132 § 9.

Editor's note: The word "and" is moved from subsection (1)(j) to subsection (1)(k) as a technical correction.

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.

§ 109. Private schools.

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

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

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

(b) The application shall include:

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

TITLE 40 - EDUCATION

- (ii) the names and qualifications of the school's instructors and administrators, and their entry permit numbers, if applicable;
- (iii) the location of the school and the facilities erected upon the site;
- (iv) the course of instruction and the language in which instruction is to be given;
- (v) the criteria applicable to accreditation of all primary and secondary schools; and
- (vi) a complete financial statement, including but not limited to, sources of funding, capital reserves, if any, and a proposed budget for the pending school year, detailing how the school plans to meet the anticipated costs of operation; and
- (vii) such other information as the Secretary may require, pertinent to whether the operation of the school will serve the best interests of the Micronesian people. The State Directors of Education shall review applications and make recommendations to the respective State Governor for concurrence.

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

(4) No private school shall be established except in conformity with this section; PROVIDED however, that any private school existing in the Federated States of Micronesia under a valid charter on the effective date of this act shall be deemed to have complied with requirements set forth herein and shall be granted a charter automatically.

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

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

Source: PL 8-132 § 10, modified.

§ 110. National Curriculum Minimum Standards.

(1) The Secretary shall establish, in cooperation and consultation with the State Boards of Education and the State Directors of Education, National Curriculum Minimum Standards.

(2) State Departments of Education and Boards of Education shall ensure that the National Curriculum Minimum Standards are implemented through their State Curriculum framework.

Source: PL 8-132 § 11.

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.

TITLE 40 - EDUCATION

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.

§ 111. Certification of home learning programs.

The Secretary of Education and the State Boards of Education may set minimum standards for home learning.

(1) The Secretary and the State Boards of Education may, upon application, review and approve a course of study of home learning as meeting those minimum standards.

(2) The Secretary and State Board of Education shall monitor for compliance with the minimum standards established by the Secretary, any home study programs which are approved under this section, and may revoke its own approval, giving reasonable grounds for such action.

Source: PL 8-132 § 12.

§ 112. Gifts, Grants; Requests for funding.

(1) The Secretary may receive and manage money or other property, both real and personal, which may be given, bequeathed, devised, or in any manner received by the National Government for the purpose of education, from sources other than the Congress.

(a) The Secretary shall manage gifts and grants in a manner consistent with applicable law, including title 55 of this code, as amended.

(b) The Secretary shall cause to be kept detailed and accurate financial records recording the receipt of each gift or grant, the disposition of each gift or grant and the income therefrom, and the essential facts of management.

(c) This subsection shall not be construed to apply to any gifts received by a State.

(2) Subject to the powers vested in the President and Congress, the Secretary is designated as the allottee and administrator of any funding that may be provided to the Department of Education for educational purposes. Such funding shall include, but not be limited to, Compact funding, foreign assistance funding, United States federal programs funding, and funding provided by other external agencies, organizations, and assistance programs.

(3) The State Departments of Education will inform the Secretary when they apply for or receive foreign assistance to education, in order to ensure coordination.

(4) When requesting funding for the State Departments of Education, the Secretary shall do so based on requests as submitted by the respective State Departments of Education.

Source: PL 8-132 § 13.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Legislature (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>.

TITLE 40 - EDUCATION

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/>.

Title 55 of this code is on Government Finance and Contracts.

§ 113. FACSSO.

(1) The Department of Health, Education and Social Affairs or its successor entity will periodically as necessary convene meetings of the Chief State School Officers and the President of the College of Micronesia-FSM, for the purpose of increasing cooperation and coordination between the States and National Government and ensuring quality educational programs and facilities for students in the following areas:

- (a) setting and attaining minimum standards for educational administration, programs and facilities;
- (b) obtaining and equitably distributing national and external financial assistance for education;
- (c) providing technical assistance to the States and sharing experience and data on how to improve the administration of educational programs; and
- (d) anticipating and meeting the needs of FSM students in the area of post-secondary education.

(2) The Secretary of the Department of Health, Education and Social Affairs or his successor or designee, the four Chief State School Officers and President of the College of Micronesia-FSM, when meeting in their official capacity, shall be known as the FSM Association of Chief State School Officers, or FACSSO.

(3) Upon discussing and reaching a consensus on educational issues, FACSSO shall formally adopt, in the form of resolutions, its findings and conclusions, as well as the reasons or principles upon which its resolutions are based.

(4) The Secretary of the Department of Health, Education and Social Affairs, or his successor or designee, shall promptly transmit FACSSO resolutions to the FSM President and to other persons as appropriate.

(5) The Secretary of the Department of Health, Education and Social Affairs, or his successor or designee, shall maintain a book of FACSSO resolutions arranged consecutively according to date of adoption, and indexed according to subject matter.

Source: PL 8-132 § 14; PL 11-68 § 1.

§ 114. Regulations.

The Secretary, upon approval by the President, is hereby authorized to promulgate regulations in accordance with title 17 of this code, implementing the provisions of this chapter, which regulations shall have the force and effect of law.

Source: PL 8-132 § 15, modified.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

TITLE 40 - EDUCATION

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

SECTIONS

- § 231. Short title.
- § 232. Free Appropriate Public Education.
- § 233. Definitions.
- § 234. Administration.
- § 235. State responsibility.
- § 236. Procedure to ensure efforts.
- § 237. Funding; Authorization.

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]

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

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.

TITLE 40 - EDUCATION

**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**

§ 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.

TITLE 40 - EDUCATION

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.

TITLE 40 - 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.

TITLE 40 - EDUCATION

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]

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

TITLE 40 - EDUCATION

CHAPTER 3
Student Assistance

SUBCHAPTER I
Student Loan Fund
[REPEALED]

Editor's note: The former subchapter I, §§ 311-316, of chapter 3 of this title on, "Student Loan Fund," was repealed by PL 6-44 § 1.

SUBCHAPTER II
General Assistance

SECTIONS

- § 321. **Transportation of school children.**
- § 322. **Residence assistance.**
- § 323. **School feeding program.**

SUBCHAPTER III
Student Loan Revolving Fund

SECTIONS

- § 324. **Short title.**
- § 325. **Purposes.**
- § 326. **Definitions.**
- § 327. **Eligibility.**
- § 328. **Maximum amount of loans.**
- § 329. **Selection.**
- § 330. **Establishing the Student Loan Revolving Fund.**
- § 331. **Advancement and repayment of loans.**
- § 332. **Reporting.**
- § 333. **Authorization.**
- § 334. **Issuance of regulations.**

SUBCHAPTER IV
Continental Airlines Scholarship Program

SECTIONS

- § 335. **Continental Airlines Scholarship; Requirements and uses.**

SUBCHAPTER V
Fisheries and Maritime Training Programs

SECTIONS

- § 371. **Fisheries and Maritime Training Program funding regulations.**

**SUBCHAPTER VI
National Merit Scholarship Program**

SECTIONS

- § 381. Definitions.**
- § 382. Benefits.**
- § 383. Selection.**

**SUBCHAPTER I
Student Loan Fund
[REPEALED]**

Editor's note: The former subchapter I, §§ 311-316, of chapter 3 of this title on, "Student Loan Fund," was repealed by PL 6-44 § 1.

**SUBCHAPTER II
General Assistance**

§ 321. Transportation of school children.

The Department may provide suitable transportation to and from school for all children in grades kindergarten through 12 and in special education classes. The Department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the Department shall consider the school district, the school attendance area in which a school child normally resides, the distance the school child lives from school, the availability of public carriers or other means of transportation, the frequency, regularity, and availability of public transportation, and the grade level, physical handicap, or special learning disability of a school child, and it may also consider conditions and circumstances unique or peculiar to a district, island, or community.

Source: COM PL 3C-36 § 29; TT Code 1970, 41 TTC 29; TT Code 1980, 41 TTC 29, modified.

§ 322. Residence assistance.

Post-elementary students attending school under such circumstances that transportation cannot be provided on a daily basis shall be provided residence assistance by the Territory. Residence assistance may be provided in a public school dormitory operated by the department or may take the form of a daily subsistence payment made to a family with whom the student resides.

Source: COM PL 3C-36 § 30; TT Code 1970, 41 TTC 30; TT Code 1980, 41 TTC 30.

§ 323. School feeding program.

(1) The Department may assist any community or district in establishing a school feeding program under such rules and regulation as the director may promulgate.

(2) The Department shall establish a feeding program for all schools having dormitory facilities. The program shall be operated under the general direction of the school principal with standards of health and cleanliness being prescribed by the director of Health Services.

TITLE 40 - EDUCATION

Source: COM PL 3C-36 § 31; TT Code 1970, 41 TTC 31; Code 1980, 41 TTC 31.

SUBCHAPTER III
Student Loan Revolving Fund

§ 324. Short title.

This subchapter shall be known as the “National Student Loan Revolving Fund Act of 1982”.

Source: PL 2-50 § 1.

Editor’s note: PL 2-50, codified herein as subchapter III, did not expressly repeal subchapter I of this chapter. PL 6-44 § 1, explicitly repealed subchapter I of this chapter.

Cross-reference: The statutory provisions of other revolving funds are found in chapter 6 of title 55 (Government Finance and Contracts) of this code.

§ 325. Purposes.

It is important to the growth of our new Nation that we identify and educate more of the talented young men and women of the Federated States of Micronesia in order to provide the fullest development of their mental resources and technical skills. The purpose of this subchapter is to establish an ongoing fund to provide long-term, low-interest loans from a revolving fund to qualified students who are in need of such financial assistance in order to pursue a full-time course of study at an institution of higher education.

Source: PL 2-50 § 2.

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.

§ 326. Definitions.

As used in this chapter:

(1) “Academic year” or its equivalent means the number of credit hours which a student must acquire during any one school year in order to secure the degree or certificate toward which he or she is working in the number of semesters or terms normally taken therefor at the institution where he is pursuing a course of study.

(2) “Chief” means the chief of the Division of Education of the Federated States of Micronesia.

(3) “Full-time attendance” means compliance by a full-time student with policies and regulations regarding attendance in effect at the institution in which he or she is enrolled.

TITLE 40 - EDUCATION

- (4) “Full-time student” means a student who is carrying a full-time academic work load in terms of course work or other required activities as determined by the institution.
- (5) “Fund” means the National Student Loan Revolving Fund.
- (6) “Institution of higher education” means an educational institution which:
- (a) admits as regular students only persons having a certificate of graduation from a school providing secondary education;
 - (b) is legally authorized to provide a program of education beyond secondary education;
 - (c) provides an educational program for which it awards a bachelor’s degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;
 - (d) is a public or other nonprofit institution; and
 - (e) is accredited by a recognized accrediting agency approved by the chief or is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited.
- (7) “Professional” or “graduate student” means, in general, a student who is enrolled in an academic program of instruction above the college level which is provided at an institution of higher education. The term includes:
- (a) that portion of any program involving a period of study beyond four academic years of study at the college level; or
 - (b) any portion of a program leading to:
 - (i) a degree beyond the bachelor’s or first professional degree, or
 - (ii) a first professional degree when at least three years of study at the college level are required for entrance into a program leading to such degree.
- (8) “Satisfactory standing” and “good standing” mean the eligibility of a student to continue in attendance at the institution where he or she is enrolled as a student in accordance with the institution’s standards and practices.

Source: PL 2-50 § 3; PL 4-114 § 15.

§ 327. Eligibility.

Loans shall be made only to a student who:

- (1) is a citizen of the Federated States of Micronesia;
- (2) is in need of the amount of the loan to pursue a course of study on a full-time basis as an undergraduate, graduate, or professional student at an institution of higher education; and
- (3) has been accepted for enrollment as a full-time student at an institution of higher education or in the case of a student already attending such an institution, is in good standing at such institution and is carrying a full-time academic work load.

Source: PL 2-50 § 4.

§ 328. Maximum amount of loans.

The loans advanced from the fund to a student for any academic year or its equivalent may not exceed a total of \$4,000, and further, the total of all such loans to an undergraduate student may not exceed \$16,000. The total of all such loans to an individual student continuing as a professional or graduate student may not exceed a combined total of \$32,000.

Source: PL 2-50 § 5.

§ 329. Selection.

Loans from the fund shall be made reasonably available, subject to section 328 of this subchapter, to all eligible applicants. In the event applications exceed available funds, the order of selection shall be made on the basis of objective criteria established by the chief pursuant to Public Law No. 1-150. Special consideration shall be given to students with superior academic backgrounds.

Source: PL 2-50 § 6.

§ 330. Establishing the Student Loan Revolving Fund.

There is established a Student Loan Revolving Fund (hereinafter the “fund”), separate from the General Fund or other funds. All appropriations for student loans shall be deposited in this account. In addition all repayments of principal and interest from loans made from this fund shall be deposited back into the fund for the purposes stated in section 325 of this subchapter. Further, all loan repayments of interest and principal for funds received from appropriations made pursuant to:

- (1) Public Law No. 1-22, as amended by Public Law No. 1-57;
- (2) Public Law No. 1-106;
- (3) Public Law No. 1-125; and
- (4) Public Law No. 2-21, as amended by Public Laws Nos. 2-26, 2-38, and 2-39; shall be deposited in the fund. Any unexpended money in this account shall not revert to the General Fund or lapse at the end of the fiscal year.

Source: PL 2-50 § 7; PL 4-114 § 16.

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/>.

§ 331. Advancement and repayment of loans.

(1) Loans from the fund shall be evidenced by a note or other written agreement between the Division of Education and the borrower which provides for repayment of the principal amount, together with interest thereon, in equal installments payable monthly over a period beginning nine months after the date on which the borrower ceases to carry the normal full-time academic work load at an institution of higher education, and ending ten years and nine months after such date. Installments need not be paid during any period, aggregating not in excess of three years, during which the borrower is in less than full-time attendance at an institution of higher education taking courses which are creditable towards a degree, but interest shall continue to accrue during any such period.

(2) Such loan shall bear interest on the unpaid principal of the loan at the rate of four percent per annum except that no interest shall accrue before the date on which repayment of the loan is to begin.

(3) Such loan shall be made without security or endorsement except that if the borrower is a minor, endorsement shall be required.

TITLE 40 - EDUCATION

(4) Any student borrower may, at his or her option, and without penalty, repay all or any part of the principal and accrued interest at any time.

(5) In the event that a student who has borrowed from the fund is unable, due to extraordinary circumstances, to comply with his or her obligations to repay the funds loaned to him or her, he or she may apply to the chief for revision of the repayment schedule.

(6) The chief shall assess a late payment charge with respect to a loan on which a student borrower has failed to pay all or part of an installment when it is due. Such late charges shall not exceed one dollar for the first month or part thereof by which an installment is late and two dollars for any month or part of a month thereafter.

Source: PL 2-50 § 8.

§ 332. Reporting.

The chief shall prepare and submit an annual report on the status of the fund prior to the opening of the regular May session of the Congress of the Federated States of Micronesia. This report shall include the total amount of outstanding current loans, total amounts of repayments collected in the prior fiscal year, the total amount of payments in default in the prior fiscal year, the number of loans made during the prior fiscal year, and such other information as may be appropriate.

Source: PL 2-50 § 9.

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

§ 333. Authorization.

The Congress of the Federated States of Micronesia hereby authorizes appropriations from the General Fund of the Federated States of Micronesia for the purposes set forth in section 325 of this subchapter. The aggregate total appropriations for the revolving fund shall not be less than \$600,000.

Source: PL 2-50 § 10.

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

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.

§ 334. Issuance of regulations.

The Chief of the Division of Education shall promulgate regulations, pursuant to Public Law No. 1-150, consistent with the contents and intent of this subchapter.

TITLE 40 - EDUCATION

Source: PL 2-50 § 11.

Cross-reference: PL 1-150 is codified at chapter 1 of title 17 of this code and is on FSM Administrative Procedures.

SUBCHAPTER IV Continental Airlines Scholarship Program

§ 351. Continental Airlines Scholarship; Requirements and uses.

The scholarship funds appropriated by PL 6-3 and all future appropriations for the Continental Airlines scholarship program shall be administered by the Department of Human Resources. These scholarship funds shall be used for a scholarship program only for graduate or undergraduate students in the field of aviation; graduate or undergraduate students in the field of civil engineering; and graduate students in the fields of law and medicine. Scholarships under this program to undergraduate students shall only be awarded to otherwise eligible undergraduate students who have completed two years full-time study or its equivalent. The Secretary of the Department of Human Resources, or his designee, shall promulgate guidelines or rules, governing the process of applying for scholarships under this program, governing the criteria for awarding scholarships under this program, governing the process of selecting recipients of scholarships under this program, governing the terms and conditions, and the enforcement of such, for scholarships under this program, and such other matters as may be necessary and consistent with the provisions of this subchapter. The promulgation of such guidelines or rules shall not be subject to the provisions of chapter 1 of title 17 of this code regarding administrative procedures.

Source: PL 6-3 § 2.

Cross-reference: Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

Editor's note: PL 6-3 § 1, appropriated \$35,000 for the purpose of funding scholarships for post-secondary students which have been established pursuant to the settlement with Continental Airlines entered into on May 7, 1987. It is the understanding of the FSM Congress that Continental Airlines, Inc. is to pay said sum into the General Fund each year for 10 years effective upon the date of settlement, and, further, that such payment has been made for the fiscal year ending September 30, 1989.

PL 6-3 became effective June 23, 1989.

SUBCHAPTER V Fisheries and Maritime Training Programs

§ 371. Fisheries and Maritime Training Program funding regulations.

The Secretary of the Department of Human Resources, or his designee, shall promulgate regulations, pursuant to chapter 1 of title 17 of this code, governing the process for payment of tuition and fees for FSM citizens attending the fisheries and maritime training programs. No payment of tuition and fees shall occur until such regulations are properly promulgated and in effect.

Source: PL 6-64 § 2.

TITLE 40 - EDUCATION

Cross-reference: Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

Editor's note: PL 6-64 § 1, appropriated \$60,000 for the purpose of funding tuition and fees to allow FSM citizens to attend fisheries and maritime training programs.

PL 6-64 became effective on July 12, 1990.

SUBCHAPTER VI National Merit Scholarship Program

Editor's note: The provisions of this subchapter were enacted by PL 16-37 which added a new subchapter VI of chapter 3 of this title. The purpose of this Act were stated in its section 1 as follows:

Section 1. **Purpose.** The Federated States of Micronesia hereby establishes a National Merit Scholarship Program. The intent of the Program is to create an exceptional scholarship program recognizing and awarding the very top high school valedictorians in the Federated States of Micronesia.

§ 381. Definitions.

- (1) "Valedictorian" means an individual graduating with the highest Grade Point Average (GPA) of all students in that individual's high school graduating class;
- (2) "National Merit Scholar" means an individual who:
 - (a) Is a citizen of the Federated States of Micronesia;
 - (b) Graduated or will graduate as valedictorian of a high school located within the Federated States of Micronesia;
 - (c) Plans to enroll in or attend any college or university within 12 months after high school graduation;
 - (d) Has taken and passed the COM-FSM Entrance Test (COMET); and
 - (e) Was selected in accordance to the procedures set forth in section 383 of this subchapter.

Source: PL 16-37 § 3.

§ 382. Benefits.

Individuals selected as National Merit Scholars shall receive the following benefits:

- (1) Recognition as a National Merit Scholar under the Federated States of Micronesia National Merit Scholarship Program; and
- (2) Payment of undergraduate tuition and fees directly to the attending college or university (but not payment towards living expenses, books or other incidental expenses) of up to \$25,000 per year for up to four years as long as the Merit Scholar maintains a minimum 3.2 grade point average (GPA).

Source: PL 16-37 § 4.

§ 383. Selection.

- (1) The Secretary of Education shall administer the National Merit Scholarship Program.
- (2) Each year the Secretary shall invite applications from individuals meeting the requirements of section 381(2)(a) through (d) of this subchapter.

TITLE 40 - EDUCATION

(3) No application shall be accepted from individuals who graduated more than 12 months before the date of the application.

(4) Applications shall include the individual's COM-FSM Entrance Test (COMET) score.

(5) No later than 30 days from the closing date of receipt of applications, the Secretary shall announce the appointment of the National Merit Scholars.

(6) A maximum of four applicants, and no more than one applicant per State, shall be selected as a National Merit Scholar per year. An applicant is considered an applicant of the State where the applicant permanently resides, and not of the State where the applicant attended high school, if the applicant attended a high school outside of the applicant's usual State of residency. The applicant from each State who meets all eligibility requirements and scores the highest COMET score shall be selected that State's National Merit Scholar for the year.

(7) In the event that two applicants from one State meet all eligibility requirements and score the same COMET score, each applicant will be designated a National Merit Scholar and receive the benefits set forth in section 382 of this subchapter. In the event there is no eligible applicant from a State in a given year, no National Merit Scholar from that State shall be selected for the year.

(8) The Secretary is authorized to promulgate rules and regulations to implement, administer and otherwise further the intent of this Program.

Source: PL 16-37 § 5.

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, as amended, 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.

CHAPTER 4
College of Micronesia

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

SECTIONS

- § 401. **Established as a public corporation.**
- § 402. **Purposes.**
- § 403. **Board of Regents—Membership.**
- § 404. **Board of Regents—Length of service of members.**
- § 405. **Board of Regents—Vacancies.**
- § 406. **Board of Regents—Removal of members.**
- § 407. **Board of Regents—Organization; Meetings; Quorum.**
- § 408. **Board of Regents—Officers.**
- § 409. **Board of Regents—Executive committee.**
- § 410. **Board of Regents—Compensation.**
- § 411. **Powers of the Board of Regents.**
- § 412. **Suits.**
- § 413. **Funding.**
- § 414. **Budget constraints—Overspending.**
- § 415. **Duties of the College of Micronesia budget and finance officer—Bond.**
- § 416. **Accounts; Reports.**
- § 417. **Modification of personnel system; Retention of outside legal counsel; Contracts for maintenance and construction; Establishment of finance and accounting department and purchasing system.**
- § 418. **Evaluation of the college.**
- § 419. **Continuance of district-government assistance functions.**
- § 420. **Exemption from taxation.**

§ 401. Established as a public corporation.

The College of Micronesia, its rector and Board of Regents, is hereby established as a public corporation under the style of the College of Micronesia, comprised of the present Community College of Micronesia, the Micronesian Occupational Center, and such other schools as may be established by the aftermentioned Board of Regents or designated by law.

Source: COM PL 7-29 § 1; TT Code 1980, 41 TTC 151.

Cross-reference: The statutory provisions on the College of Micronesia-FSM are found in chapter 7 of this title.

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

§ 402. Purposes.

TITLE 40 - EDUCATION

The purposes of the college are to make high quality, post-secondary education available to the citizens of the Trust Territory, to conduct research, and to disseminate such knowledge and advanced learning as the Board may from time to time prescribe or the Trust Territory Government require.

Source: COM PL 7-29 § 2; TT Code 1980, 41 TTC 152.

§ 403. Board of Regents—Membership.

There shall be a Board of Regents of the College of Micronesia which shall consist of the following members who shall serve for the following terms:

(1) one member from each administrative district of the Trust Territory appointed by the District Administrator, with the advice and consent of the district legislature, to serve a term of four years; provided that the District Administrator shall submit his nomination to the district legislature for the first member appointed pursuant to this subsection on or before November 10, 1977; provided further, that at the first Board meeting the members appointed pursuant to this subsection shall by drawing lots designate three members to serve an initial term of two years.

(2) two members appointed by the High Commissioner to serve terms of four years, one of whom is noted in the Trust Territory for his accomplishments in the field of economic development and who is not a full-time employee of the executive or judicial branch of the Trust Territory Government at the territorial or district level, and the other of whom is a nonresident of the Trust Territory but who resides in the Pacific area who is well recognized in the field of education for his work with post-secondary institutions of learning; provided, that the High Commissioner shall submit his nominations to the Congress of Micronesia for the first members appointed pursuant to this subsection on or before November 10, 1977; provided further, that the High Commissioner shall designate one of the first two members appointed pursuant to this subsection to serve an initial term of two years; and

(3) the chairman of the Trust Territory Board of Education, or its successor.

Source: COM PL 7-29 § 3; COM PL 7-130 § 15; TT Code 1980, 1 TTC 153; PL 1-82 § 1.

§ 404. Board of Regents—Length of service of members.

No person, except the chairmen of the Board of Education or its successor, and ex officio members, shall be eligible to serve more than eight consecutive years on the Board.

Source: COM PL 7-29 § 4; TT Code 1980, 41 TTC 154.

§ 405. Board of Regents—Vacancies.

Any vacancy on the Board of Regents shall be filled for the unexpired term in the same manner as originally filled. Three consecutive absences of a Board member from separately called meetings of the Board, called not less than 30 days apart, shall automatically create a vacancy in his seat. Upon determining a vacancy exists, the rector, or presiding officer of the Board in the absence of the rector, shall issue a notice of vacancy to all members of the Board and to the party or parties responsible for filling the vacancy. Any vacancy occasioned by failure to make a nomination to the respective legislative body charged with advice and consent within 60 days prior to the expiration of the previous term, or by failure to submit a nomination to the respective legislative body to fill a vacancy within 60 days of receipt of notice that such vacancy exists, or within 10 days of receipt of notice of rejection of a previously submitted nomination, shall be filled by the presiding officer or officers of the respective legislative body charged with advice and consent for the remainder of the unexpired term.

Source: COM PL 7-29 § 5; TT Code 1980, 41 TTC 155.

§ 406. Board of Regents—Removal of members.

Members of the Board may be removed only by a three-fourths vote of all other voting members of the Board of Regents before the expiration of their terms for incompetence, neglect of duty, or malfeasance. The Trial Division of the High Court of the Trust Territory is given original jurisdiction over any appeal for any such removal from the Board.

Source: COM PL 7-29 § 6; TT Code 1980, 41 TTC 156.

§ 407. Board of Regents—Organization; Meetings; Quorum.

(1) The Board of Regents shall meet and organize by the election of its officers in its annual meeting which shall be called on the third Monday of January each year. The Board shall meet at such other times as the Board shall so determine or as otherwise specified by law. The rector may call a special meeting of the Board on his own initiative and shall call a special meeting of the Board upon the petition of one-third of its members. The bylaws of the Board shall provide that adequate written notice be given to all members of the Board prior to the convening of any Board meeting. The bylaws shall further provide that the Board shall regularly publish the minutes of its meetings.

(2) A quorum shall consist of a majority of all voting members. All business shall be conducted by a majority of those present unless otherwise provided by law or the bylaws of the Board.

(3) The first meeting of the Board shall be called by the chairman of the Trust Territory Board of Education, who shall preside as temporary rector until a permanent rector is selected.

Source: COM PL 7-29 § 7(1), (2), (3); COM PL 7-130 § 1; TT Code 1980, 41 TTC 157(1), (2), (3).

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

§ 408. Board of Regents—Officers.

(1) At the first meeting of the Board, and annually thereafter, members of the Board shall appoint from their own body a rector, who shall preside at the meetings. At the same time they shall appoint from their own body a vice rector to serve as the presiding officer of the Board in the absence of the rector, and a secretary-treasurer of the Board. In the absence of the rector or [sic] vice rector at any meeting, the secretary-treasurer shall preside, and in the absence of all three, the Board may appoint a pro tempore officer to preside. Any vacancies in the offices of rector, vice rector, or secretary-treasurer shall be filled by the Board for the unexpired term.

(2) The rector, or presiding officer, shall sign all instruments required to be executed by the Board.

(3) The secretary-treasurer shall work closely with the budget and finance officer of the college in supervising the financial affairs of the college.

Source: COM PL 7-29 § 7(4), (5), (6); COM PL 7-130 § 1; TT Code 1980, 41 TTC 157(4), (5), (6).

Editor's note: In subsection (1) of this section, the word "or" is in the original, but the word "and" appears to be intended. (1982 Code)

§ 409. Board of Regents—Executive committee.

At every annual meeting of the Board, the members may appoint an executive committee for the transaction of business in the recess of the Board, which shall consist of not less than three nor more than five members, to serve for a period of one year or until the next regular annual meeting.

Source: COM PL 7-29 § 7(7); TT Code 1980, 41 TTC 157(7).

§ 410. Board of Regents—Compensation.

The members of the board shall receive per diem at standard Trust Territory Government rates while on the business of the college. Those members who are employees of the Trust Territory Government shall be granted administrative leave and receive their regular salaries while on the business of the college. Other members shall receive 30 dollars per day while on the business of the college.

Source: COM PL 7-29 § 7(8); TT Code 1980, 41 TTC 157(8).

§ 411. Powers of the Board of Regents.

The Board of Regents shall have general management and control over the affairs of the college, and to this end, shall the powers to:

- (1) adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;
- (2) appoint and terminate such officers of the Board as it deems necessary, or as required by law;
- (3) fix, in its discretion, the rates charged the students of the college for tuition, fees, and other necessary charges;
- (4) confer such degrees and grant such diplomas and certificates as colleges of like stature are usually authorized to confer or grant;
- (5) appoint, evaluate the performance of, and terminate the services of the president of a school;
- (6) establish policies and approve procedures for the appointment of all faculty members and the granting of tenure to any faculty member;
- (7) establish policies and approve procedures for the granting of full and partial scholarships or fellowships to students for educational purposes, and, in its discretion, approve methods by which individual students may work for the college in some suitable capacity and have such labor credited against their tuition;
- (8) establish annual lists of fields of study of National priority for post-secondary and graduate levels of training;
- (9) award all student loans and scholarship grants, unless the provisions of the loan or grant specifically require otherwise, for attendance of Micronesian students at post-secondary and graduate institutions within Micronesia or abroad, based upon the quality of the institution and the relevancy of the intended instruction to National development priorities of Micronesia;
- (10) acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary to carry out its purposes; provided that any real property granted to the college without cost by the Trust Territory Government or any political subdivision thereof, or by any other legal entity capable of receiving and holding public land in the Trust Territory shall revert to said Government, political subdivision, or legal entity upon the cessation of active use by the college;

TITLE 40 - EDUCATION

(11) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate with any agency or instrumentality of the United States, or with any State, territory, or possession or with any political subdivision thereof, or with any other foreign government, or agency, instrumentality, or political subdivision thereof, or with the Trust Territory Government, or any agency, instrumentality, or political subdivision thereof; or with any person, firm, association, or cooperative;

(12) determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of law specifically applicable to the college;

(13) borrow money from time to time; provided, that no debt of the college shall be secured by real property granted to the college without cost by the Trust Territory Government or any political subdivision thereof, or by any legal entity capable of receiving and holding public land in the Trust Territory;

(14) execute in accordance with its bylaws, all instruments necessary or appropriate in the exercise of its powers;

(15) establish such policies, rules, regulations, and standards as it may deem necessary for the effective operation of the college, including the establishment or approval of rules, regulations, and standards governing the admission, discipline, and removal of students;

(16) establish policies and approve procedures for the maintenance of such departments and courses instruction and for the undertaking of such research projects and programs as it deems appropriate of as may be required by law;

(17) provide for a program of workman's compensation for employees of the college equal to, or greater than that available to persons of similar employment with the Trust Territory Government;

(18) take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the duties conferred upon it by law; and

(19) incorporate into the College of Micronesia such technical and research establishments, including the Micronesian Mariculture Demonstration Center in Palau, as the Board of Regents might deem necessary or appropriate to ensure a quality program of instruction and research which is relevant to National development priorities of Micronesia; and to acquire personnel and all property, whether real or personal, tangible or intangible, of any such establishment as may be transferred to the College of Micronesia.

Source: COM PL 7-29 § 8; COM PL 7-130 §§ 2-7; TT Code 1980, 41 TTC 158; PL 1-82 § 2.

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

§ 412. Suits.

The college may sue and be sued in its corporate name; provided that it shall be subject to suit only in the manner provided for suits against the Trust Territory Government; provided further, that any liability incurred by the college shall not be a liability of the Trust Territory Government or any subdivision thereof. The chancellor of the college, the secretary-treasurer of the Board of Regents, the rector of the Board of Regents, or, in the absence of the rector, the vice rector of the Board of Regents are authorized to accept service or to be served on behalf of the college.

TITLE 40 - EDUCATION

Source: COM PL 7-29 § 9; TT Code 1980, 41 TTC 159.

§ 413. Funding.

The Board of Regents may receive, manage, and invest moneys or other property, real, personal, or mixed, which may be appropriated, granted, given, bequeathed, devised, endowed, or in any manner received from any source for the purposes of the college's improvement or adornment, or for the aid of students or faculty, and in general may act as trustee on behalf of the college.

Source: COM PL 7-29 § 10; TT Code 1980, 41 TTC 160.

§ 414. Budget constraints—Overspending.

The college shall have a budget for each fiscal year which reflects the amount of money available for the operation of the college. Any person who overobligates or overexpends the funds available and budgeted for any purpose or department of the college shall be personally liable for the resulting deficiency.

Source: COM PL 7-29 § 11; TT Code 1980, 41 TTC 161.

§ 415. Duties of the College of Micronesia budget and finance officer—Bond.

(1) The College of Micronesia budget and finance officer shall be the chief fiscal, accounting, and budget officer of the College of Micronesia. As such, he shall receive and disburse all funds of the college including all its subdivisions.

(2) Before entering into his duties, he shall execute, at the expense of the college, a good and sufficient bond in the sum of not less than \$20,000 or such greater sum as may be established by the Board. Said bond shall be with one or more sufficient sureties authorized to do business in the Trust Territory, shall be approved as to form by the High Commissioner, and shall be filed with the Attorney General.

(3) The budget and finance officer shall be selected by the Board, and will at all times be under the direct supervision of the Board. He shall serve at the discretion of the Board of Regents.

Source: COM PL 7-29 § 13; TT Code 1980, 41 TTC 163; PL 1-82 § 4.

§ 416. Accounts; Reports.

(1) The College of Micronesia budget and finance officer shall be responsible for ensuring that proper and complete books of account are kept reflecting all income, expenditures, assets, and money of the college, including appropriations, gifts, property, tuition, fees, and other funds.

(2) The Board of Regents shall publish not later than 45 days after the close of each fiscal year a complete report showing the activities of the college during the fiscal year, the present condition of the college, the financial status of the college, and such other matters as the Board shall deem appropriate.

(3) In addition to any other audits provided for by law, the Board shall select either the Trust Territory auditor or an independent auditor selected by the Board who shall inspect and audit all accounts of the college at least annually, and report thereon to each governmental entity within the Trust Territory.

Source: COM PL 7-29 § 14; COM PL 7-130 § 9; TT Code 1980, 41 TTC 164; PL 1-82 § 5.

§ 417. Modification of personnel system; Retention of outside legal counsel; Contracts for maintenance and construction; Establishment of finance and accounting department and purchasing system.

The Board of Regents may, by appropriate majority resolution directed to the High Commissioner, do the following:

(1) establish or modify its own personnel system and policies independent of the Trust Territory Public Service System, the Trust Territory Personnel Board, and the Trust Territory Department of Personnel; provided that until such personnel system and policies are established or modified, the college shall be subject of the provisions of former title 61 of the Trust Territory Code and applicable public employment regulations thereunder; provided further, that any such modified personnel system shall honor any existing employment contract of any employee of the college with the Trust Territory Government for the duration of that contract;

(2) retain outside legal counsel in lieu of the Attorney General; provided that until such action is taken by the Board, the Attorney General will continue to provide legal assistance to the college;

(3) contract for outside maintenance, repair, and construction work in lieu of using the services of the Department of Public Works or other Trust Territory departments or services; provided that until such action is taken by the Board, the Department of Public Works will continue to provide such services to the college; and

(4) establish a finance and accounting department and purchase supplies, equipment, and materials through its own purchasing department in lieu of using the services of the Trust Territory Department of Finance; provided that until such action is taken by the Board the Trust Territory Department of Finance will continue to provide such services to the college.

Source: COM PL 7-29 § 15; COM PL 7-130 § 16; TT Code 1980, 41 TTC 165; PL 1-82 § 6.

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

§ 418. Evaluation of the college.

(1) The Board shall, prior to the conclusion of each school year, cause an independent survey to be conducted among students and faculty of the college evaluating the quality of administration, the quality of course instruction, the effectiveness of the faculty and such other matters as the Board may deem appropriate, and shall transmit a copy of the results of the survey to each governmental entity within the Trust Territory, and the chairman of the Trust Territory Board of Education or its successor within 30 days of the conduct of the survey.

(2) Commencing in 1980, and every five years thereafter, the chairman of the Trust Territory Board of Education shall contract for an independent and comprehensive evaluation to be made of all aspects of the administration, education, and research activities of the college, and a report of the evaluation shall be transmitted by the chairman to the rector of the college, the High Commissioner, and each governmental entity within the Trust Territory within 90 days of the conclusion of the evaluation.

Source: COM PL 7-29 § 16; COM PL 7-130 § 10; TT Code 1980, 41 TTC 166; PL 1-82 § 7.

§ 419. Continuance of district-government assistance functions.

TITLE 40 - EDUCATION

Public utilities services shall be provided by the respective district governments to the college without cost to the college. Housing and maintenance services now available to the college, or their equivalents, shall continue to be made available to the college without costs.

Source: COM PL 7-130 § 13; TT Code 1980, 41 TTC 167; PL 1-82 § 8.

§ 420. Exemption from taxation.

The college, its property, revenues, and income are exempt from taxation by the Trust Territory Government or its political subdivisions.

Source: COM PL 7-130 § 14; TT Code 1980, 41 TTC 168; PL 1-82 § 8.

Editor's note: The statutory provisions of this chapter are retained in this code for reference, since they were not explicitly repealed by PL 7-79, the College of Micronesia-FSM Act of 1992. However, most of these provisions are superseded and repealed by implication, since they contain subject matter specifically covered in the later College of Micronesia-FSM Act of 1992 (chapter 7 of this title).

CHAPTER 5
Library of the Congress of Micronesia

SECTIONS

- § 501. Establishment.**
- § 502. Title to Library property.**
- § 503. Use of Library.**
- § 504. Librarian.**
- § 505. Gifts to the Library.**

§ 501. Establishment.

There is hereby established within the Office of the Legislative Counsel a Library of the Congress of Micronesia, herein referred to as the Library.

Source: COM PL 3-37 § 1; TT Code 1970, 41 TTC 101; TT Code 1980, 41 TTC 101.

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

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/>.

§ 502. Title to Library property.

The title to any and all Library property is and shall continue to be in the Congress of Micronesia.

Source: COM PL 3-37 § 2; TT Code 1970, 41 TTC 102; TT Code 1980, 41 TTC 102.

§ 503. Use of Library.

The Library shall be available for the use of all persons in Micronesia in accordance with the rules and regulations set forth by the librarian with the approval of the legislative counsel.

Source: COM PL 3-37 § 3; TT Code 1970, 41 TTC 103; TT Code 1980, 41 TTC 103.

Cross-reference: For statutory provisions on the Legislative Counsel of the Congress of the Federated States of Micronesia, see chapter 6 of title 3 (Legislative) of this code.

§ 504. Librarian.

(1) The librarian of Congress shall be appointed by the legislative counsel, with the approval of the Speaker of the House of Representatives and the President of the Senate of the Congress of Micronesia, solely on the basis of merit and fitness to perform the duties of the office.

(2) The librarian shall be responsible to the legislative counsel for the administration and operation of the library, its organization, property, and personnel. The librarian with the approval of the legislative counsel shall prepare rules and regulations for the governing of the Library and its departments.

(3) The librarian shall make an annual report to the legislative counsel prior to the beginning of each regular session of the Congress, with respect to the activities, financial status, condition of the Library, and recommendations as to future operations.

TITLE 40 - EDUCATION

Source: COM PL 3-37 § 4; TT Code 1970, 41 TTC 104; TT Code 1980, 41 TTC 104.

§ 505. Gifts to the Library.

The librarian is hereby authorized to accept on behalf and in the name of the Library of the Congress of Micronesia, from any government, agency, individual, or any other source, advisory services, grants-in-aid, and gifts and donations of money and other property for the benefit of the Library; provided that any grant-in-aid, donation, or other form of assistance involving an obligation on the part of the Library of the Congress of Micronesia shall require the approval of the President of the Senate and the Speaker of the House of Representatives of the Congress of Micronesia.

Source: COM PL 3-37 § 5; TT Code 1970, 41 TTC 105; TT Code 1980, 41 TTC 105.

CHAPTER 6
Aid to Nonpublic Schools Fund

SECTIONS

- § 601. Title.**
- § 602. Program established.**
- § 603. Utilization of funds.**
- § 604. Equitable distribution.**
- § 605. Reporting.**
- § 606. Promulgation of regulations.**

§ 601. Title.

This chapter shall be known as the “Aid to Nonpublic Schools Fund Program Act.”

Source: PL 4-103 § 1.

§ 602. Program established.

There is hereby established the Aid to Nonpublic Schools Fund Program, which shall be administered in accordance with this chapter and any regulations promulgated hereunder.

Source: PL 4-103 § 2, modified.

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.

§ 603. Utilization of funds.

Funds appropriated by the Congress for the purpose of providing aid to nonpublic schools in the Federated States of Micronesia shall be used for secular purposes only, including, but not limited to, health services, transportation services, textbooks, instructors’ salaries, and instructional materials. Such funds shall be used for the extension of services to students attending nonpublic schools in the same manner and for the same purposes as such services are extended to students of equal level in public schools.

Source: PL 4-103 § 3.

Cross-reference: The FSM Constitution provides in art. IV, sect. 2, as follows:

Section 2. No law may be passed respecting an establishment of religion or impairing the free exercise of religion, except that assistance may be provided to parochial schools for non-religious purposes.

TITLE 40 - EDUCATION

The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code.

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/>.

§ 604. Equitable distribution.

All funds appropriated for the Aid to Nonpublic Schools Fund Program shall be administered by the President or his designee in a manner calculated to ensure an equitable distribution of the assistance represented by the funds to all students in nonpublic schools within the Federated States of Micronesia.

Source: PL 4-103 § 4.

§ 605. Reporting.

The Director of the Office of Education of the Federated States of Micronesia shall prepare and submit to the Congress an annual report on the status of the program before each regular May session of the Congress. This report shall detail the expenditures of program funds during the preceding fiscal year, and shall include such other information as the Director of the Office of Education of the Federated States of Micronesia may deem appropriate.

Source: PL 4-103 § 5.

§ 606. Promulgation of regulations.

The Director of the Office of Education of the Federated States of Micronesia, with the approval of the President, shall promulgate regulations, pursuant to chapter 1 of title 17 of this code, governing the procedures for ensuring an equitable distribution of funds among the States; the process by which nonpublic schools may apply for funds under the program; the criteria governing awards of funds under the program; the purposes for which such funds may be used consistent with section 603 of this chapter; the procedures for accounting for funds awarded under the program; and such other matters as may be consistent with the contents and purposes of this chapter.

Source: PL 4-103 § 6.

Cross-reference: Chapter 1 of title 17 of this code is on FSM Administrative Procedures.

CHAPTER 7
College of Micronesia—FSM

SECTIONS

- § 701. Title.
- § 702. College of Micronesia—FSM established as a public corporation.
- § 703. Definitions.
- § 704. Purposes.
- § 705. Organizing principles.
- § 706. Board of Regents established; Membership.
- § 707. Board of Regents; Initial terms of office.
- § 708. Board of Regents; Terms of office.
- § 709. Board of Regents; Notification of expiration of term.
- § 710. Board of Regents; Vacancies.
- § 711. Board of Regents; Officers.
- § 712. Board of Regents; Quorum.
- § 713. Board of Regents; Meetings.
- § 714. Board of Regents; Committees.
- § 715. Board of Regents; Expenses, compensation, and honorarium.
- § 716. Board of Regents; Indemnification of members.
- § 717. Board of Regents; Bylaws.
- § 718. Board of Regents; Removal of members.
- § 719. Board of Regents; Powers and responsibilities.
- § 720. Board of Regents; Ethical conduct.
- § 721. President of the College.
- § 722. Employees of the College.
- § 723. Incorporation of the College.
- § 724. Liability.
- § 725. Financial support.
- § 726. Budget submission.
- § 727. Financial management.
- § 728. Reports and auditing procedures.
- § 729. Exemption from taxation.
- § 730. Periodic survey.
- § 731. Professional licensure.
- § 732. Applicability of laws.
- § 733. Successor in interest.
- § 734. Taking effect.

§ 701. Title.

This chapter shall be known and may cited as the “College of Micronesia—FSM Act of 1992.”

Source: PL 7-79 § 1.

Cross-reference: The statutory provisions on the College of Micronesia are found in chapter 4 of this title.

§ 702. College of Micronesia—FSM established as a public corporation.

TITLE 40 - EDUCATION

The College of Micronesia—FSM (hereinafter also referred to as “the College”), its extension schools, continuing education programs, and such other colleges, institutions, schools, centers, and programs as may from time to time be established by law or by the Board of Regents to come under the College of Micronesia—FSM system, is hereby established as a public corporation.

Source: PL 7-79 § 2.

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.

§ 703. Definitions.

In this chapter, unless the context otherwise requires:

- (1) “Adult basic education” means secondary level educational programs and courses offered to out-of-school adults;
- (2) “Board” or “Board of Regents” means the Board of Regents of the College of Micronesia—FSM as established by this chapter;
- (3) “COMFSM” or “the College” means the College of Micronesia—FSM as established by this chapter;
- (4) “College of Micronesia” or “COM” means the College of Micronesia system established pursuant to the “Treaty Among the Governments of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau” executed in Kolonia, Pohnpei, Federated States of Micronesia, on September 1, 1987, as amended, or any successor treaty that continues the existence of the College of Micronesia;
- (5) “Congress” means the Congress of the Federated States of Micronesia;
- (6) “Continuing education” means in-service professional development and non-credit or credit programs and courses offered at the post-secondary level;
- (7) “General education” means an education program that introduces the content and methodology of the major areas of knowledge, including the humanities, the fine arts, the natural and social sciences, and helps students to develop intellectual skills and social attitudes that will make them effective learners and citizens;
- (8) “Land Grant Programs” means the programs established by 7 United States Code sections 301 et seq.;
- (9) “Post-secondary education” means any educational offerings beyond the secondary level;
- (10) “Treaty” means the “Treaty Among the Governments of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau Regarding the College of Micronesia” signed in Kolonia, Pohnpei, Federated States of Micronesia, on September 1, 1987, as amended; and

TITLE 40 - EDUCATION

(11) “Vocational education” means the provision of skills and attitudes which makes an individual employable and productively useful in the labor market.

Source: PL 7-79 § 3.

§ 704. Purposes.

It is the intent of this chapter to establish a post-secondary educational entity to be located within the Federated States of Micronesia to serve the varied post-secondary and adult educational needs of the Nation. As such, the College of Micronesia—FSM established by this chapter shall:

(1) Provide for such services as post-secondary education instruction, teacher training, continuing education, cultural education, adult basic education, vocational education, extension services, post-high school college preparatory instruction and assistance, administration of post-secondary education financial assistance programs for students attending COMFSM, monitoring COMFSM student performance, and other post-secondary education related functions;

(2) Maintain accreditation by the Western Association of Schools and Colleges and other appropriate accreditation institutions;

(3) Develop and offer certificate and degree programs in fields that will meet the development and manpower needs of the States and Nation;

(4) Assist, when requested, in any training and education programs and services currently being provided to adults and out-of-school youths by various public and private agencies and organizations;

(5) Develop and conduct outreach programs where there is an established need and available funding;

(6) Serve as an instruction, research and extension site for Land Grant Programs for COM and/or COMFSM, be eligible to receive funding, endowments and interest available to Land Grant institutions, and provide instruction, training, coordination, assistance and financial and other support for Land Grant Programs;

(7) Coordinate with other educational institutions in the Micronesian region and other locations, for such matters as the transfer of credits and programs, reciprocal treatment of students for immigration, work-study, and other purposes, coordination of exchange programs, joint and cooperative research or educational programs, and such other matters that deal with the cooperative interaction between COMFSM and other educational institutions;

(8) Coordinate and cooperate with the respective education departments in each of the States and with the National Government Department of Human Resources, Division of Education, for the effective shared use of resources, including, but not limited to, facilities, equipment, personnel, technical assistance, funding, and educational support services;

(9) Conduct and support research relevant to the needs of the States and the National Government of the Federated States of Micronesia to the degree funding is available particularly as relevant to assessing ongoing training, educational, and technological needs;

(10) Administer, coordinate, and provide services related to post-secondary student financial assistance provided by governmental and other sources for students attending COMFSM and other affiliated programs;

(11) Serve as a post-secondary education testing center;

(12) Support and fund continuing education centers and/or other equivalent programs in the States;

TITLE 40 - EDUCATION

(13) Upon specific request, serve as an assisting and coordinating agency for all post-secondary education activities conducted within the Federated States of Micronesia when requested by other agencies and organizations; and

(14) Provide other post-secondary and adult education related activities as determined by the Board and as financially feasible.

Source: PL 7-79 § 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 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/>.

§ 705. Organizing principles.

The College, in accordance with recognized professional standards, shall have a representative governance structure to insure institutional autonomy, academic freedom, principles of equity, and insulation from political interference in order to best serve the public interest.

Source: PL 7-79 § 5.

§ 706. Board of Regents established; Membership.

(1) A five member Board of Regents which shall be the governing body for the general management and control of the College is hereby established and shall consist of the following members:

(a) One member shall be appointed by the President with the advice and consent of the Congress. This member shall be designated as the representative from the National Government.

(b) Four members, one from each State, shall be appointed by the President with the advice and consent of the Congress. These members shall be designated as representatives from their respective States.

(c) The President of the College shall be an *ex officio* member of the Board with no voting rights.

(2) Employees of the College shall not be eligible for appointment by the President pursuant to subsections (1)(a) and (1)(b) of this section. Members appointed by the President pursuant to subsections (1)(a) and (1)(b) of this section shall represent diverse elements of the population of the States and the Nation, including, but not limited to, business and industry, education, and community service organizations.

(3) All members, except the President of the College, shall be voting members.

Source: PL 7-79 § 6; PL 8-144 § 1, modified.

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

§ 707. Board of Regents; Initial terms of office.

At the initial Board meeting, the four members of the Board representing their respective States shall draw lots in order to ascertain their terms of office. Two States shall have an initial two-year term

and two States shall have an initial three-year term. After the initial terms, the terms of the respective State members shall be as provided in section 708 of this chapter. The initial term of office of the remaining Board member shall be as provided in section 708 of this chapter. Members of the Board may serve beyond the expiration date of their initial terms until their successors have been appointed.

Source: PL 7-79 § 7; PL 8-144 § 2.

§ 708. Board of Regents; Terms of office.

The terms of office for the members of the Board shall be as follows:

(1) The member representing the National Government shall serve for a term of three years and shall not serve more than two consecutive terms.

(2) The members representing their respective States shall serve for a term of three years and shall not serve for more than two consecutive terms.

(3) Members of the Board may serve beyond the expiration date of their terms until their successors have been appointed. The initial terms of members of the Board shall be counted towards the aforementioned limitation of terms.

Source: PL 7-79 § 8; PL 8-144 § 3.

§ 709. Board of Regents; Notification of expiration of term.

The Board of Regents shall notify the President of the Federated States of Micronesia, in writing, of the upcoming expiration of the term of Board members 90 days before the actual expiration of the Board member's term.

Source: PL 7-79 § 9.

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

§ 710. Board of Regents; Vacancies.

Any vacancy on the Board shall be filled for the unexpired portion of the term in the same manner as the original appointment. Three consecutive absences, of any kind, of a Board member from separately called meetings of the Board, called not less than 30 calendar days apart, shall automatically create a vacancy in that Board member's seat. Upon a determination that a vacancy exists, the chairperson, or in his/her absence, the presiding officer of the Board shall issue a notice of vacancy to all members of the Board and to the appropriate governmental entities and parties responsible for filling the vacancy.

Source: PL 7-79 § 10.

§ 711. Board of Regents; Officers.

Members of the Board shall annually appoint one member chairperson, who shall preside at meetings of the Board. At the same time they shall also appoint one member vice chairperson to serve as the presiding officer of the Board in the absence of the chairperson, and a secretary-treasurer who shall serve as presiding officer of the Board in the absence of both the chairperson and vice chairperson. In the absence of all three officers, the Board may appoint a pro tempore officer to preside. The President of the College shall not be eligible for appointment as an officer of the Board.

Source: PL 7-79 § 11.

§ 712. Board of Regents; Quorum.

A quorum of the Board shall consist of a majority of all voting members. All official business of the Board shall be conducted by a majority of those present and voting at a meeting of the Board for which a quorum exists, unless otherwise provided by law or the bylaws of the Board.

Source: PL 7-79 § 12.

§ 713. Board of Regents; Meetings.

(1) The Board shall meet and organize by the election of its officers in its regular annual organizational meeting which shall be called on a specified date each year. In addition to the regular organizational meeting, the Board shall meet in one other regular meeting during the year, as specified in the bylaws of the Board.

(2) The Board may also meet in special meetings at such other times of the year as the Board shall so determine. The chairperson shall call a special meeting of the Board upon the petition of two of its members.

(3) In the case of any regular meeting of the Board, written notice shall be provided to Board members at least ten calendar days in advance of the meeting day.

(4) Meetings of the Board shall be open to the public provided that the Board is not discussing personnel matters, litigation or impending litigation with its attorney.

(5) In the case of any regular meeting of the Board, notice shall be provided to the public in advance of the meeting day.

(6) The Board shall publish and disseminate the minutes of all of its meetings within 20 calendar days of the conclusion of a meeting.

(7) The Board shall schedule and hold a meeting with representatives of the Student Body Association and/or the Staff Senate, during the current or next upcoming Board meeting, whichever is sooner, when a written request for such a meeting is made by the Student Body Association or the Staff Senate of the College.

Source: PL 7-79 § 13; PL 8-144 § 4.

§ 714. Board of Regents; Committees.

The Board may create such committees of the Board as it deems necessary or appropriate. No committee or committee member shall act in place of the Board and committee decisions must be approved by the Board.

Source: PL 7-79 § 14.

§ 715. Board of Regents; Expenses, compensation, and honorarium.

The members of the Board shall receive per diem and car rental, where justified and necessary, at standard National Government rates while on Board-approved business of the College. Those members who are employees of the National Government or the College shall be granted administrative leave and receive their regular salaries while on the business of the College. Other nongovernment members who are not otherwise being compensated shall receive compensation on a daily basis while on the Board-approved business of the College. The rate of compensation shall be established by the Board, but shall not exceed \$30.00 per day. Consultants or advisors participating in Board activities who are not

officials or employees of the National or State Governments or the College may receive a reasonable honorarium at the discretion of the Board. The President of the College shall not be entitled to receive expenses, compensation or honorarium as provided in this section.

Source: PL 7-79 § 15.

§ 716. Board of Regents; Indemnification of members.

Every member of the Board shall be indemnified by the College against all expenses and liabilities reasonably incurred or imposed upon such member of the Board in connection with any threatened, pending or completed action, suit or proceeding to which such member may be made a party or in which the member may become involved by reason of being or having been a member of the Board, or any settlement thereof, whether or not such member of the Board is a member of the Board at the time such expenses are incurred, except in such cases wherein the member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of the duties of the office; PROVIDED, however, that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the College. The private property of members of the Board shall not be subject to the debts or obligations of the College. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights to which such member of the Board may be entitled.

Source: PL 7-79 § 16.

§ 717. Board of Regents; Bylaws.

The Board shall adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to, or imposed upon it, by law.

Source: PL 7-79 § 17.

§ 718. Board of Regents; Removal of members.

Board members may be removed before the expiration of their terms by a three member majority vote of all the other voting members of the Board for incompetence, neglect or duty, unethical conduct, or malfeasance in office. Notification of intent to call for removal pursuant to this section shall be made at least 20 calendar days in advance, by means which shall be described in the bylaws, and shall include a summary of the basis of the charges against the member and identification of the witnesses to be called and evidence to be used. Original jurisdiction over any claim of wrongful removal by action of the Board shall be in the Trial Division of the Supreme Court of the Federated States of Micronesia.

Source: PL 7-79 § 18; PL 8-144 § 5.

Cross-reference: The statutory provisions on the FSM Supreme Court are found in title 4 of this code.

§ 719. Board of Regents; Powers and responsibilities.

The Board of Regents shall have general management and control over the affairs of the College, and to this end, shall have the powers to:

- (1) Clarify the mission of the College;
- (2) Ensure the institutional autonomy of the College;
- (3) Act as a liaison between the community and the College;

TITLE 40 - EDUCATION

- (4) Be responsible for the financial soundness of the College and ensure that the educational program and the physical facility plans are of high quality and consistent with the purposes of the College;
- (5) Ensure adequate financial resources, including seeking funding for the College and its programs from businesses and institutions both inside and outside the Federated States of Micronesia;
- (6) Ensure strong financial management;
- (7) Appoint and terminate all officers and employees of the Board;
- (8) Appoint and assess the performance of the President of the College;
- (9) Ensure the well-being of faculty, students, and staff through the approval of appropriate policies and procedures;
- (10) Adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to, or imposed upon it, by law;
- (11) Serve as the court of appeal to faculty, students, and staff;
- (12) Fix, in its discretion, the rates to be charged to students of the College for tuition, room and board, and other necessary fees and charges, and grant tuition waivers as the Board shall deem appropriate;
- (13) Approve such policies and standards as deemed necessary for the effective operation of the College;
- (14) Approve programs of instruction and research;
- (15) Incorporate into the College such technical and research establishments as the Board deems necessary or appropriate to ensure a quality program of instruction and research which is relevant to priorities of the State and National Governments of the Federated States of Micronesia, and to acquire all property whether real, personal or mixed, tangible, or any such establishment as may be transferred to the College;
- (16) Annually review and approve long-range plans for the development of the College;
- (17) Execute, in accordance with its bylaws all instruments necessary or appropriate in the exercise of its powers and to that end adopt, alter, and use a common seal by which all acts of the Board shall be authenticated;
- (18) Delegate any of its powers and duties to an officer of the Board or an official or employee of the College where proper and appropriate;
- (19) Act in an advisory capacity to the regional COM Board of Regents on Land Grant Plans of Work and other Land Grant issues;
- (20) Take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the powers and duties granted to or imposed upon it by this chapter; and
- (21) Assess their own performance.

Source: PL 7-79 § 19.

§ 720. Board of Regents; Ethical conduct.

The Board shall act as a whole; no member or committee created by the Board may act in place of the Board. The bylaws of the Board created pursuant to sections 717 and 718 of this chapter shall include a statement of ethical conduct for its members. Such statement shall include, but is not limited to, a provision prohibiting Board members from participating in any action involving a possible conflict of interest or from realizing a financial gain, other than compensation provided pursuant to this chapter, from their position as a Board member.

Source: PL 7-79 § 20.

§ 721. President of the College.

(1) The President of the College shall be appointed by the Board. The President of the College shall have full charge and control of the administration and business affairs of the College.

(2) The powers of the President of the College are subject to limitations by the Board and by law, and include the following:

- (a) To see that rules and regulations of the College are established and implemented;
- (b) To attend all meetings of the Board and submit a general report of the affairs of the College to the Board;
- (c) To keep the College advised of the requirements set forth by the Board;
- (d) To keep the Board advised as to the needs of the College;
- (e) To devote her/his full time to the business of the College, to approve the selection and appoint the employees of the College except as otherwise provided by this chapter and to plan, organize, coordinate, and control the services of such employees in the exercise of the power of the College under the general direction of the Board;
- (f) To cause to be submitted to the President of the Federated States of Micronesia and the Congress 120 days from the end of each fiscal year a report describing the condition and progress of College programs and activities during the preceding fiscal year, including a financial report showing the results of operations for the preceding fiscal year and financial status of the College on the last day thereof. The report shall be made in a manner provided by the Board; and
- (g) To perform such other additional duties as the Board may require.

Source: PL 7-79 § 21.

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

§ 722. Employees of the College.

(1) A personnel system for the College shall be adopted which provides that employees of the College are not employees of any government of the Federated States of Micronesia, or its political subdivisions, for any purpose.

(2) In appointing and promoting officials and other employees of the College, criteria and procedures shall be utilized which are fair, objective, practical, do not discriminate on the basis of sex, marital status, physical handicap, race, religious or political preference, place of origin or ancestry, and result in the impartial selection of the ablest person for the particular job.

(3) Except for officials of the College serving at the pleasure of the Board, every official, faculty member, and other employee of the College shall be entitled to hold his/her position during good behavior, subject to suspension, demotion, layoff, or dismissal only as provided in the personnel regulations of the College; PROVIDED that the tenure of a contract employee is the term stated in his/her contract. No employee of the College shall be suspended, demoted, laid off, dismissed, or otherwise discriminated against because of sex, marital status, physical handicap, race, religious or political preference, place of origin or ancestry.

(4) Individuals who are employees of the Community College of Micronesia of the College of Micronesia, upon entry into force of this Act, may continue to serve in their current positions with the College.

Source: PL 7-79 § 22.

§ 723. Incorporation of the College.

The College:

- (1) Is a public corporation;
- (2) Has perpetual succession;
- (3) Shall have a seal;
- (4) May enter into contracts;
- (5) May acquire, hold, charge and dispose of property;
- (6) May sue and be sued in its corporate name; and
- (7) For the purposes of its functions, has all the powers, duties, and responsibilities of a corporation.

Source: PL 7-79 § 23.

§ 724. Liability.

(1) With respect to suits brought in the courts of the Federated States of Micronesia, the College shall be subject to suit only in the manner provided for and to the extent that suits may be brought against the National Government of the Federated States of Micronesia; PROVIDED that any liability incurred by the College shall not be a liability of the National Government of the Federated States of Micronesia or its political subdivisions. The chairperson or vice chairperson of the Board of Regents is authorized to accept service or to be served on behalf of the College.

(2) The College shall endeavor to maintain adequate insurance coverage to protect itself against liability for bodily injury or death of any person and against liability for loss of or damages to property as the result of the operations or maintenance of real property, facilities and improvements, and vehicles and other equipment owned or used by the College.

Source: PL 7-79 § 24.

§ 725. Financial support.

The College at its discretion shall:

(1) Acquire in any lawful manner any property, real, personal or mixed, tangible or intangible, or any interest therein for purposes of the College; to hold, maintain, use, and operate the same for purposes of the College; and to sell, lease, transfer, exchange, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary by the Board to carry out the purposes of the College; PROVIDED that any real property and improvements thereon granted to or otherwise made available to the College shall revert to the respective State or National Government, or its political subdivisions, upon the cessation of its active use by the College; and

(2) Borrow money provided that no debt of the College shall be secured by real property or improvements granted or otherwise made available to the College by the National Government, or any political subdivision thereof; and PROVIDED that, unless expressly provided by law or agreement, no debt or obligation of the College shall be a debt or obligation of the National Government or its political subdivisions, nor shall the National Government, or its political subdivisions be responsible for any such debts or obligations.

Source: PL 7-79 § 25.

TITLE 40 - EDUCATION

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.

§ 726. Budget submission.

(1) An annual budget shall be submitted, in a timely fashion, by the Board to the President and the Congress of the Federated States of Micronesia for the annual expenditures of the College. The Congress shall make annual appropriations to the College for operating and capital expenditures.

(2) The budget shall:

(a) Contain budget projections for each of the two subsequent fiscal years;

(b) Include all expenditures and projected revenues for all sources;

(c) Include an operations budget for each major component of the College;

(d) Identify capital improvement needs of the College; and

(e) Include analysis of major trends over the three years budgeted and projected regarding funding sources, spending and program emphasis, proposed program expansions and contractions, tuition, room and board, other fees and charges, and staffing levels.

(3) In addition to the annual budget the College may make application for additional funds.

(4) The College is authorized to receive tuition, fees, private gifts, donations, endowments, grants and other monies from public or private sources for restricted or unrestricted purposes. Such funds as are received shall be deposited to the appropriate account of the College. Expenditures shall be made from the fund only for the purposes of this chapter and in accordance with such conditions as may be attached to the gift, donation, endowment or grant; PROVIDED that such expenditures shall be made in accordance with the budget approved by the Board. The college is authorized to deposit the funds in a banking institution approved by the Board.

Source: PL 7-79 § 26.

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 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/>.

§ 727. Financial management.

The Board at its discretion shall:

(1) Enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms and conditions as it may deem appropriate, including contracts to perform organized research, training, and demonstrations on a reimbursable basis;

TITLE 40 - EDUCATION

(2) Receive, manage, and invest monies, and receive and manage other property, real, personal or mixed, tangible or intangible, or services which may be appropriated, or in any manner received from any source for the purposes of the College, its improvement or adornment, or for the aid to the students or faculty of the College, and in general to act as trustee on behalf of the College for such purposes or objects;

(3) Approve rates of per diem and policies relating thereto for officials, faculty members, and other employees of the College; and

(4) Approve such rents, fees and charges, as the Board deems appropriate, for the private use of facilities of the College or services provided by the College.

(5) *Accounting and financial reporting.* The Board shall be responsible for ensuring that the College develops, implements, and maintains, in accordance with generally accepted accounting principles, accounting and record-keeping, financial reporting, and financial management systems which provide for full disclosure of the results of financial operations, adequate financial information needed in the management of operations, and the formulation and execution of the annual budget adopted by the Board. Such systems shall ensure effective control over income, expenditures, funds, property and other assets of the College and be designed to prevent the misappropriation of funds. Records relating to the financial transactions of the College shall be maintained for at least five years.

(6) *Limitations on authorized expenditures.* Unless otherwise specifically authorized by the Board, no officer or employee of the College shall or otherwise authorize an expenditure from, or create or authorize an obligation of, funds of the College:

(a) After the period of time available for obligation and expenditure as provided by the Board;

(b) In excess of the sum approved by the Board;

(c) In advance of the availability of funds; or

(d) For purposes other than those for which an expenditure or obligation has been authorized by the Board.

(7) Any person who shall knowingly and willfully violate this section shall be personally liable for the resulting deficiency and shall be subject to criminal prosecution.

(8) The Board may require that any officer of the Board or any official or employee of the College furnish a bond of a kind and in an amount required by the Board.

Source: PL 7-79 § 27, modified.

§ 728. Reports and auditing procedures.

(1) The Board shall provide to the President and the Congress of the Federated States of Micronesia by April 1 of each year or as soon as practicable thereafter, an annual report concerning the activities, programs, progress, condition, and financial status of the College in the fiscal year most recently completed. The annual report shall provide comprehensive financial information which accounts for the use of all funds available to the College from the National Government or otherwise and which shall be prepared in accordance with generally accepted accounting principles. The annual report shall also describe implementation of the College's long-range plan and include information on student enrollment, costs per component and per student, and the status of the students who graduated from or terminated studies at the College.

(2) The Board shall request and utilize the Public Auditor who shall inspect and audit all accounts of the College at least annually and report thereon to the Board and to the National Government of the Federated States of Micronesia. For the purposes of this paragraph, audit means

TITLE 40 - EDUCATION

financial, compliance, program results, economy and efficiency audits, including determinations as to whether the College has met the requirements set forth in this chapter and determinations as to the propriety of the financial transactions of the College. The Board of Regents and officials, faculty, and other employees of the College shall cooperate fully with the audit officials to enable them to fully discharge their responsibilities, and provide such audit officials access, without cost and during normal working hours, to all personnel, records, documents, working papers, automated data, files, and other information such audit officials deem relevant to their work.

Source: PL 7-79 § 28.

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

§ 729. Exemption from taxation.

The College and its assets, revenues, income, and property shall be exempt from all direct taxes imposed by the National Government, including any taxes, customs duties, or import and export taxes, fees or charges imposed by the National Government on the importation, acquisition, or exportation of equipment and supplies required by the College for official functions. The tax exemptions provided for in this paragraph shall not be for the benefit of any officer, official, faculty member, employee, student, or other individual associated with the College and the College shall be liable for employer's contributions to any social security or pension system of the National Government in the manner provided by law. For purposes of all types of registration and license fees, sales taxes, and other charges and fees included in prices of equipment, goods and services, the College shall be treated as an agency or instrumentality of the National Government.

Source: PL 7-79 § 29.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 730. Periodic survey.

The Board shall periodically cause an independent survey to be conducted among students and faculty of the College evaluating the quality of administration, quality of course instruction, the effectiveness of faculty, and such other matters as the Board may deem appropriate. Such an independent survey shall be conducted within two years after the date this act takes effect and shall be done every three years thereafter, or as required by the accreditation standards set by the Western Association of Schools and Colleges. The Board shall transmit a copy of the results of the survey to the President and the Congress of the Federated States of Micronesia and to the Governors of the States of the Federated States of Micronesia within 60 calendar days of the completion of the survey.

Source: PL 7-79 § 30.

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

§ 731. Professional licensure.

The Board shall establish minimum standards and qualifications for members of the faculty of the College comparable to standards and qualifications of colleges of like stature or as otherwise appropriate to the College's circumstances.

TITLE 40 - EDUCATION

Source: PL 7-79 § 31.

§ 732. Applicability of laws.

Laws and regulations of the National Government of the Federated States of Micronesia and its political subdivisions shall apply to the College.

Source: PL 7-79 § 32.

§ 733. Successor in interest.

The College of Micronesia—FSM as the successor in interest to the Community College of Micronesia shall assume all contractual duties, obligations, and liabilities for contracts entered into by the Community College of Micronesia prior to the effective date of this act.

Source: PL 7-79 § 33.

Cross-reference: The statutory provisions on the College of Micronesia are found in chapter 4 of this title.

§ 734. Taking effect.

This Act shall take effect on October 1, 1992.

Source: PL 7-79 § 34.