

AN ACT

To further amend title 40 of the Code of the Federated States of Micronesia, as amended, by amending sections 232 and 233 to define "Free Appropriate Public Education" for funding eligibility purposes under the United States Individuals with Disabilities Education Act Amendments of 1997, and for other purposes.

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

1 Section 1. Section 232 of title 40 of the Code of the
2 Federated States of Micronesia, as amended by Public Law No. 8-21,
3 is hereby further amended to read as follows:

4 "Section 232. Free Appropriate Public Education.

5 (1) *Statement of Policy.* The Congress of the
6 Federated States of Micronesia, recognizing the
7 obligation of the Federated States of Micronesia under
8 section 109 of title 1 of this Code that free elementary
9 and secondary education, through grade 12, shall be
10 provided throughout the Federated States of Micronesia,
11 and further recognizing the obligation of the Federated
12 States of Micronesia to provide full educational
13 opportunities to all children which will enable them to
14 lead fulfilling and productive lives, hereby declares
15 that it is the policy of the Federated States of
16 Micronesia and the purpose of this subchapter to provide
17 a Free Appropriate Public Education (FAPE) and related
18 services for eligible children with disabilities, age 0
19 through 21, and that eligible children with disabilities

1 shall primarily receive special education and related
2 services, insofar as appropriate, in regular classrooms
3 and regular schools or other natural environments, which
4 provide education and interaction with non-disabled
5 children, that are offered by the Federated States of
6 Micronesia through each State Department of Education
7 and other public agencies.

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

11 (a) Incarcerated Youth. Students age 18 through
12 21 who, in the last educational placement prior to their
13 incarceration in an adult correctional facility:

14 (i) Were not actually identified as being a
15 child with a disability under this Act; and

16 (ii) Did not have an IEP under the provisions
17 of this Act.

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

21 (i) Had been identified as a child with
22 disability and had received services in accordance with
23 an IEP, but who left school prior to their
24 incarceration; or

25 (ii) Did not have an IEP in their last

1 educational setting, but who had actually been
2 identified as a "child with a disability" under the
3 provisions of this Act.

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

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

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

14 Section 2. Section 233 of title 40 of the Code of the
15 Federated States of Micronesia, as amended by Public Law No. 8-21,
16 is hereby further amended to read as follows:

17 "Section 233. Definitions. As used in this subchapter,
18 unless the context otherwise requires:

19 (1) 'Children with disabilities' includes those
20 individuals from birth through age 21 who are evaluated
21 as having mental retardation, hearing impairments
22 including deafness, speech or language impairments,
23 visual impairments including blindness, serious
24 emotional disturbance, orthopedic impairments, autism,
25 traumatic brain injury, other health impairments,

1 specific learning disabilities, deaf-blindness, or
2 multiple impairments, and who because of those
3 impairments need special education and related services.

4 (2) 'Free Appropriate Public Education (FAPE)' the
5 term free appropriate public education or FAPE means
6 special education and related services that:

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

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

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

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

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

20 (3) 'Secretary' means the Secretary of the Department
21 of Education.

22 (4) 'Special education' means instructional or
23 other services necessary to assist children with
24 disabilities. Special Education is specially designed
25 instruction, at no cost to the parents, to meet the

1 unique needs of a child with a disability, including
2 instruction conducted:

- 3 (a) in the classrooms;
4 (b) in the home;
5 (c) in hospitals and institutions;
6 (d) in other settings; and
7 (e) in physical education."

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

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June 23, 2005

/s/ Redley Killion for
Joseph J. Urusemal
President
Federated States of Micronesia