

Title 16

EDUCATIONAL INSTITUTIONS

Chapters:

01	Compact for Education
02	Board of Regents
03	General Provisions
04	(Reserved)
05	Public Schools
06	Special Public Schools
07	Private Schools
08	Faifeau Schools
09	(Reserved)
10	Teaching Personnel
11-14	(Reserved)
15	Early Childhood Education
16	Special Education
17-19	(Reserved)
20	American Samoa Community College Board of Higher Education
21	American Samoa College Research Foundation
22-24	(Reserved)
25	Student Financial Aid

Chapter 01

COMPACT FOR EDUCATION

Sections:

16.0101	Adoption of compact.
16.0102	American Samoa education council.
16.0103	Commission to send bylaws.
16.0104	Appropriation.

Reviser's Comment:

The preamble to PL 15-81, 1978, §§ 1-4 of which were made this chapter, provides that "This bill is offered as a preparatory step, subject to later appropriation, to ratifying the Compact for Education and thus joining the Education Commission of the States".

16.0101 Adoption of compact.

The Compact for Education is entered into and enacted with all jurisdictions joining therein, in the form following:

ARTICLE I. PURPOSE AND POLICY

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
2. Provide a forum for the discussion, development, crystallization and

recommendation of public policy alternatives in the field of education.

3. Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.

C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because of products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II. STATE DEFINED

As used in this compact, "State" means a State, Territory or Possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III. THE COMMISSION

A. The Education Commission of the States, hereinafter called the "Commission", is hereby established. The Commission shall consist of 7 members representing each party state. One of such members shall be the Governor; 2 shall be members of the state Legislature selected by its respective houses and serving in such manner as the Legislature may determine; and 4 shall be appointed by and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the Commission, 6 members shall be appointed and serve at the pleasure of the Governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the Commission, the guiding principal for the composition of the membership on the Commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations, be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and provisional, public and nonpublic educational leadership. Of those appointees, 1 shall be the head of a state agency or institution, designated by the Governor, having responsibility for 1 or more programs of public education. In addition to the members of the Commission representing the party states there may be not to exceed 10 nonvoting

commissioners selected by the steering committee for terms of 1 year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the Commission shall be entitled to 1 vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article [11(j)].

C. The Commission shall have a seal.

D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice-chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph F of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.

I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The Commission annually shall make to the Governor and Legislature of each party state a report covering the activities of the Commission for the preceding year. The

Commission may make such additional reports as it may deem desirable.

ARTICLE IV. POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V. COOPERATION WITH FEDERAL GOVERNMENT

A. If the laws of the United States specifically so provide, or if administrative provision is made therefore within the Federal Government, the United States may be represented on the Commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI. COMMITTEES

A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, 1/4 shall consist of legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve

for terms of 2 years, except that members elected to the first steering committee of the Commission shall be elected as follows: 16 for 1 year and 16 for 2 years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than 2 terms as a member of the steering committee; provided that service for a partial term of 1 year or less shall not be counted toward the 2 or more of the party States.

B. The Commission may establish such additional committees as its bylaws may provide.

ARTICLE VII. FINANCE

A. The Commission shall advise the Governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The Commission shall not pledge the credit of any party states. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III (G) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III (G) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.

E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the Commission.

F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII. ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In

respect of any such jurisdiction not having a Governor, the term "Governor", as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided, that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided, that in the absence of enactment, adherence by the Governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his state, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX. AMENDMENTS TO THE COMPACT

This compact may be amended by a vote of 2/3 of the members of the Commission present and voting when ratified by the Legislatures of 2/3 of the party states.

ARTICLE X. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

History: 1978, PL 15-81.

16.0102 American Samoa Education Council.

There is established the American Samoa Education Council composed of the members of the Education Commission of the states representing this Territory, and 3 other persons appointed by the Governor for terms of 3 years. Such other persons shall be selected so as to be broadly representative of professional and lay interest within this state having the responsibilities for, knowledge with respect to, and interest in educational matters. The Chairman shall be designated by the Governor from among its members. The Council shall meet on the call of its Chairman or at the request of a majority of its members, but in any event the Council shall meet not less than 3 times in each year. The

Council may consider any and all matters relating to recommendations of the Education Commission of the States and the activities of the members in representing this Territory.

History: 1978, PL 15-81.

16.0103 Commission to send bylaws.

Under Article III (1) of the compact, the Commission shall file a copy of its bylaws, and any amendments, with the Chairman of the Council.

History: 1978, PL 15-81.

16.0104 Appropriation.

The Governor shall provide adequate appropriation for the implementation of the provisions of this chapter in his annual budget proposals under the Department of Education allocation.

History: 1978, PL 15-81.

Chapter 02

BOARD OF REGENTS

Sections:

16.0201 Board of regents-Created-Membership-Meetings-Function.

16.0202 Board of regents-Transportation.

16.0210 Board of vocational education-Membership-Function.

16.0201 Board of Regents—Created— Membership-Meetings-Function.

(a) A Board of Regents is created to take the place of the former board of education.

(b) The Board shall consist of 9 members appointed by the Governor with the concurrence of the Senate and the House of Representatives. Two of the board members shall be appointed from Manu'a, 4 from the eastern district, and 3 from the western district. Appointment of Board members shall be for staggered terms of 2 and 3 years, but members shall serve until successors are appointed by the Governor.

(c) The Board shall meet quarterly and at such other times as determined by majority vote of the Board members or as called for by the Director of Education.

(d) The Board shall function as an Advisory Board to the Director of Education, who shall be an ex officio member of the board.

History: 1962, PL 7-15; 1970, PL 11-92.

16.0202 Board of Regents—Transportation.

Each member of the Board shall be issued a pass by the government good for 1 roundtrip public transportation between his village and the location of Board meetings. For his use in attending any meeting of the Board, any member residing in Manu'a shall receive a pass from the government good for 1 round trip between the village of his actual residence and Tutuila in addition to his daily transportation pass between the village of his residence in Tutuila and location of Board meetings.

History: 1970, PL 11-92.

16.0210 Board of vocational education- Membership-Function.

(a) The Board of Regents shall act as the Board of Vocational Education.

(b) The Director of Education shall serve as Executive Officer for the Board of Vocational Education.

(c) The Board of Vocational Education shall be responsible for the administration of a vocational education program for American Samoa.

History: 1970, PL 11-92.

Chapter 03

GENERAL PROVISIONS

Sections:

16.0301 Standards for schools--Responsibility of Director of Education.

16.0302 Required attendance at schools.

16.0303 Responsibility of parents.

16.0304 Approval of content of courses on Samoan culture.

16.0305 Examination of employees.

16.0306 Preventive measures against diseases.

16.0307 Sanitary condition of buildings and surroundings.

16.0308 Truancy—Investigation--Notice to parents--Penalty.

16.0309 Immunization--Mandatory prior to school enrollment--Exceptions.

16.0301 Standards for schools--Responsibility of Director of Education.

The Director of Education shall determine for all types of schools efficient and adequate standards for the physical plant, lighting, ventilation, sanitation, safety, equipment and supplies, instruction operation, supervision, recognition and teaching, curriculum, library, maintenance, administration and he may grant certificates of to schools meeting such standards.

History: 1962, PL 7-15.

16.0302 Required attendance at schools.

Attendance at a public or private school shall be required of all children between 5 and 18 years of age inclusive, unless excused or excluded for good reason by the Director of Education.

History: 1962, PL 7-15; 1967, PL 10-10; 2006, PL 29-28.

16.0303 Responsibility of parents.

(a) Any adult person having the direct supervision of a child for school purposes shall be regarded as the parent of the child, whether the natural parent or parent by adoption, or guardian or custodian, legal or otherwise.

(b) A parent is responsible for the regular attendance of his child during the period of legal school age.

History: 1962, PL 7-15.

16.0304 Approval of content of courses on Samoan culture.

Matters relative to Samoan custom, culture and traditions shall not be taught in the schools of American Samoa unless the materials to be taught have been approved by the Secretary of Samoan Affairs.

History: 1962, PL 7-15.

16.0305 Examination of employees.

Each public and private school employee shall be examined at least once every school year by the Department of Health, and the Department of Health may proceed in any case in such manner as it deems necessary to insure the public health and safety.

History: 1962, PL 7-15.

16.0306 Preventive measures against diseases.

The Department of Health may, when necessary, institute preventive measures against diseases among pupils and teachers including, but not limited to, vaccinations, inoculations, and prophylactic measures.

History: 1962, PL 7-15.

16.0307 Sanitary condition of buildings and surroundings.

It shall be the responsibility of principals, teachers, and pupils to keep the school buildings and surroundings in a sanitary condition in accordance with law and such rules as may be prescribed by the Director of Education or other proper authority.

History: 1962, PL 7-15.

16.0308 Truancy—Investigation--Notice to parents--Penalty.

(a) The truant officer, when notified by any school official, shall investigate all cases of truancy or nonattendance at school.

(b) If any parent fails to send any child under his control to some certified school, the truant officer shall, as soon as practicable after he is notified thereof, give notice to such person that such child shall be present at the proper public school on the day following receipt of such notice.

(c) The truant officer, after giving notice to any person having control of any child not attending school, shall determine whether the notice has been complied with, and if not complied with, the truant officer shall thereupon make complaint against such person before the district court wherein the person resides.

(d) Any person having control of a child who fails to comply with an order of the truant officer shall be fined not more than \$15, or confined in prison for not more than 1 month, or both.

History: 1962, PL 7-15.

16.0309 Immunization--Mandatory prior to school enrollment--Exceptions.

Prior to a child's initial enrollment in any school in American Samoa, one of the following statements must be submitted to the principal or other person having general control and supervision of the school:

(1) a statement signed by a physician that the child has received a tine test for tuberculosis and immunization against red measles and German measles or rubella,

poliomyelitis, diphtheria, whooping cough, and tetanus, by means approved by the chief health officer and that the immunization is currently effective; or

(2) a statement signed by a physician that the physical condition of the child is that immunization would seriously endanger the child's life or health; or

(3) a statement signed by the child's parent or guardian that the child has not been immunized as prescribed in paragraph (1) because the child is being reared as an adherent of a religious denomination whose teachings are opposed to that immunization.

History: 1982, PL 17-33.

Chapter 04

(RESERVED)

Chapter 05

PUBLIC SCHOOLS

Sections:

- 16.0501 Classification.**
- 16.0502 Consolidated schools--Provision of buildings and teachers.**
- 16.0503 Secondary schools--Responsibility of government.**
- 16.0510 Language of instruction.**
- 16.0511 Sectarian religious instruction--Voluntary prayers.**
- 16.0512 Conduct of pupils.**
- 16.0513 School fees.**

16.0501 Classification.

There are 3 types of public schools: early childhood education, consolidated schools, and secondary schools.

History: 1962, PL 7-15; 1968, PL 10-45; amd 1977, PL 15-15 § 2.

Amendment: 1977 Substituted "There are 3 types" for "There shall be two types", and added "early childhood education" as one of the listed schools.

16.0502 Consolidated schools--Provision of buildings and teachers.

(a) Where 2 or more villages reach an agreement to consolidate their resources for the purpose of forming a public school, and approval has been secured from the Director of Education for such consolidation, the organization shall be called a "consolidated" school.

(b) It shall be the sole responsibility of the government to provide and maintain school buildings, to pay teachers' salaries, and to provide qualified teaching personnel.

History: 1962, PL 7-15; 1968, PL 10-45.

16.0503 Secondary schools--Responsibility of government.

The secondary schools shall be developed as the sole responsibility of the government. The government shall provide personnel and provide and maintain adequate buildings and curricula suitable for academic, vocational, and teacher training courses for all

qualified pupils.

History: 1962, PL 7-15; 1968, PL 10-45.

16.0510 Language of instruction.

Instruction in all public schools shall be in the English language, but the Samoan language may be used when necessary to facilitate teaching the English language.

History: 1962, PL 7-15

16.0511 Sectarian religious instruction--Voluntary prayers.

(a) Sectarian Religious Instruction. No sectarian religious instruction may be given in any public school. This may not be interpreted to prohibit prayers, scripture reading, or the singing of religious songs.

(b) Voluntary Prayers — Permissible. Voluntary prayers may be offered in public schools and public buildings under a policy adopted by the Director of Education for public schools or the Director of Public Works for public buildings, or in the absence thereof the principal or teacher in charge of students in public schools and the individual in charge of a public meeting may lead those assembled in a voluntary prayer.

History: 1962, PL 7-15; amd 1980, PL 16-89 § 1.

Amendments: 1980 Added new subsection (b) and designated previous section as subsection (a).

16.0512 Conduct of pupils.

Any person attending any class in any public school shall be designated as a pupil. It shall be the duty of every pupil to carry out the instructions of teachers and principal and to obey the school laws and regulations of the Director of Education pertaining to conduct and child welfare.

History: 1962, PL 7-15.

16.0513 School fees.

The Director of Education shall collect such fees as are required by regulations of the Governor for the maintenance of the public school program. Nonpayment of such fees shall be considered just cause for exclusion of a pupil from school.

History: 1962, PL 7-15.

Chapter 06

SPECIAL PUBLIC SCHOOLS

Sections:

- 16.0601 Designation.**
- 16.0602 Subject to rules and regulations.**
- 16.0603 Financial subsidies.**
- 16.0604 Part of public school system.**

16.0601 Designation.

All public schools directly under the jurisdiction of the Department of Education that

are supported wholly or partly by government appropriations, but are not part of the general education system, shall be designated as special schools.

History: 1962, PL 7-15.

16.0602 Subject to rules and regulations.

All special schools shall be subject to such rules and programs of study as may be prescribed for them by the Director of Education.

History: 1962, PL 7-15.

16.0603 Financial subsidies.

Financial subsidies for special schools by foundations or outside interests may not be allowed to interfere with the jurisdiction of the Director.

History: 1962, PL 7-15.

16.0604 Part of public school system.

Special schools shall be considered as part of the public school system.

History: 1962, PL 7-15.

Chapter 07

PRIVATE SCHOOLS

Sections:

- 16.0701 Designation--Certification--Contents of application.**
- 16.0702 Session length requirement.**
- 16.0703 Exemption from public school attendance.**
- 16.0704 Curriculum requirements.**
- 16.0705 Religious instruction.**
- 16.0706 Required reports--Permanent enrollment records.**

16.0701 Designation—Certification--Contents of application.

(a) All schools carrying on regular educational work equivalent to the public school curriculum and receiving no government financial support shall be designated as private schools.

(b) No private school may operate without a certificate of authorization from the Department of Education, which shall be issued annually based upon the inspection of the school. No school which does not maintain satisfactory standards of instruction, curriculum, and physical plant as prescribed by the Director of Education may be issued a certificate.

(c) Each school seeking authorization by the Director for the first time shall submit the following information:

- (1) a statement of the aims and purposes of the school;
- (2) the names and addresses of the sponsors and supporters of the school;
- (3) the ages, grades and sex of the children to be enrolled;
- (4) the amount of tuition to be charged;
- (5) the curriculum to be pursued.

History: 1962, PL 7-15.

16.0702 Session length requirement.

Private schools must be in session the same number of days as public schools, though not necessarily between the same dates.

History: 1962, PL 7-15.

16.0703 Exemption from public school attendance.

Children attending authorized private schools may not be required to attend public schools.

History: 1962, PL 7-15.

16.0704 Curriculum requirements.

Private school officials shall include in their curriculum such material as the Director of Education may require in the interest of good citizenship.

History: 1962, PL 7-15.

16.0705 Religious instruction.

The Department of Education may not interfere with any religious instruction given in private schools.

History: 1962, PL 7-15.

16.0706 Required reports-Permanent enrollment records.

- (a) Each private school shall submit monthly enrollment reports.
- (b) Each private school shall annually submit the following:
 - (1) a calendar for the school year;
 - (2) a list of all teachers, showing names, ages, experience, and professional qualifications;
 - (3) a certificate of health for each teacher;
 - (4) a list of the curriculum and books to be used, by grades;
 - (5) a schedule of classes.
- (c) Private school officials shall maintain permanent record cards on each pupil enrolled.

History: 1962, PL 7-15.

Chapter 08

FAIFEAU SCHOOLS

Sections:

16.0801 Designation.

16.0802 Interference with public school work—Modification of program.

16.0801 Designation.

Schools organized by pastors and held outside of regular public school hours shall be

designated as faifeau schools.

History: 1962, PL 7-15.

16.0802 Interference with public school work--Modification of program.

Whenever the Director of Education is convinced that a faifeau school is interfering with the work of the public schools, he shall have the authority to determine the time and hours of their instruction and to enforce a modification of their program of study.

History: 1962, PL 7-15.

Chapter 09

(RESERVED)

Chapter 10

TEACHING PERSONNEL

Sections:

16.1001 Classification—Certification.

16.1002 Duties and responsibilities.

16.1001 Classification—Certification.

(a) Teaching personnel shall be classed as teachers, principals, supervisors, education specialists, and such other classes as may be prescribed by the Director of Education.

(b) No person may be employed as a member of the teaching personnel who is not of good character and in good health. All members of the teaching personnel must hold a certificate of qualification granted by the Department of Education.

History: 1962, PL 7-15.

16.1002 Duties and responsibilities.

The duties and responsibilities of the teaching personnel shall be to perform the professional work necessary to carry out the official course of study of American Samoa to abide by all of the school laws, and to abide by all regulations of the Director of Education.

History: 1962, PL 7-15.

Chapter 11—14

(RESERVED)

Chapter 15

EARLY CHILDHOOD EDUCATION

Sections:

- 16.1501 Establishment of program.**
16.1502 Administrator—Powers and duties.

16.1501 Establishment of program.

There is established, within the Department of Education, an early childhood education program to be headed by an administrator appointed by the Director of Education.

History: 1977, PL 15-15 § 1.

16.1502 Administrator--Powers and duties.

The early childhood education program administrator has the following powers and duties:

(1) to design, develop, and review annually a comprehensive Territory-wide, community-based program to meet early childhood needs;

(2) to supervise, apportion, and administer the expenditure of all Territorial and Federal funds utilized for early childhood education;

(3) to apply for, receive, and administer funds which are, or may become, available under federal programs pertaining to child education, including funds for administration, demonstration projects, construction, or acquisition of facilities, training, technical assistance, planning, and evaluation;

(4) to assist children and their parents or guardians in obtaining the assistance and service which the child needs and which are provided by the Territory;

(5) to develop a program to inform the public concerning comprehensive early childhood education;

(6) to provide for the regular evaluation of all early childhood education;

(7) to adopt rules, without reference to the Administrative Procedure Act, 4.1001 et seq., for the implementation of the powers and duties prescribed within this section; and

(8) to report and make recommendations to the Director for improvement of comprehensive early childhood education programs.

History: 1977, PL 15-15 § 1.

Chapter 16

SPECIAL EDUCATION

Sections:

- 16.1601 Short title.**
16.1602 Purpose.
16.1603 Definitions.
16.1604 Divisions of special education—Administration.
16.1605 Identification.
16.1606 Funding--Federal aid.

16.1601 Short title.

This act shall be known and may be cited as the “American Samoa Special Education Act of 2000.

History: 1977, PL 15-1 § 1, 1993 PL 23-3, 2000, PL 26-33.

16.1602 Purpose.

The Legislature of American Samoa recognizing the obligation of the Territory under Article 1, Section 15 of the Constitution of American Samoa to provide “free . . . public education” and recognizing the concept that all children should have available to them educational opportunities that will enable them to lead satisfying and productive lives, hereby declares that it is the policy of the Government of American Samoa and the purpose of this Act to provide a free appropriate public education for all children with disabilities. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who do not have disabilities and that special classes, separate schooling or other removal of children with disabilities from the regular classroom environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplemental aids and services cannot be achieved satisfactorily. Special Education and related services shall be provided to a child with a disability in accordance with the child’s Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP). An IEP or an IFSP shall be developed, reviewed, and revised at least annually in accordance with all federal mandates. Children with disabilities who have been suspended or expelled from school shall not be denied a free appropriate public education.

History: 1977, PL 15-1 § 2; amd 1993, PL 23-3, 2000, PL 26-33.

16.1603 Definitions.

As used in this chapter:

(1) "Children with disabilities" include those persons three through 21 years of age who have 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 disabilities who because of those disabilities need special education and related services.

(2) “Department” means the Department of Education.

(3) “Director” means the Director of Education.

(4) “Special Education” means;

(A) specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including;

(i) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) instruction in physical education.

(B) including speech language pathology services, or any other related service, if the service is considered special education rather than a related service under state standards.

(C) vocational education and travel training. The terms in this definition are defined as follows:

(i) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(ii) "Physical education" is defined as follows:

(a) the development of - (1) physical and motor fitness; (2) fundamental motor skills

and patterns; and (3) skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(b) special physical education, adaptive physical education, movement education, and motor development.

(iii) “Specially designed instruction” means adapting, as appropriate to the needs of an eligible child the content, methodology or delivery of instruction to address the unique needs of the child that result from the child’s disability and to ensure access of the child to the general curriculum so that he or she can meet the educational standards within the Territory that to all children.

(iv) “Travel training” means providing instruction, as appropriate to children with significant cognitive disabilities, and any other children with disabilities who require this instructor, to enable them to develop an awareness of the environment in which they live, and learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(v) “Vocational education” means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate or advance degree.

(5) “Related services” means those services included in “related services” as defined by federal rules and regulations authorized by 20 U.S.C. 1401 (22).

History: 1977, PL 15-1 § 3; amd 1993, PL 23-3, 2000, PL 26-33.

16.1604 Division of special education--Administration.

(a) There is established within the Department a Division of Special Education which is headed by a Director of Special Education, who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of American Samoa relating to the education of children with disabilities.

(b) The Director, together with the board of regents, shall establish and make studies, surveys, evaluations, policies, and adopt rules necessary maintain this program and shall delegate the authority for general supervision of all educational programs serving students with disabilities in public agencies to the Director of the Division of Special Education. Monitoring, program evaluation and the implementation of programs meeting the standards of the Department shall be the responsibility of the Division.

(c) The Director shall submit to the Legislature and to the Office of the Governor not later than 10 January of each year, an annual report and current Territorial Special Education Plan.

(1) The annual report shall include, but not be limited to: the current enrollment of children with disabilities; their geographic location, the programs and services provided them; and, the source of funding.

(2) The Territorial Special Education Plan shall be submitted as required by federal mandates.

History: 1993, PL 23-3, 2000, PL 26-33.

16.1605 Identification.

The Director shall establish, in cooperation with other appropriate governmental agencies policies and procedures to ensure that all children with disabilities in the Territory are identified, located and evaluated in accordance with federal mandates.

History: 1977, PL 15-1 § 5; amd 1993, PL 23-3, 2000, PL 26-33.

16.1606 Funding--Federal aid.

(a) Federal aid. The Department may apply for, administer, receive, and expend any federal aid for which the Territory may be eligible in the administration and operation of its special education program. If this aid is available for a multistate, territorial, or regional program in which this Territory participates, the Department may apply for and devote all or a portion of the federal aid to the multistate, territorial, or regional program.

(b) The Department shall budget for each disabled child at least that amount budgeted for the education of each non-disabled child.

History: 1977, PL 15-1 § 6; amd 1993, PL 23-3

Chapters 17—19

(RESERVED)

Chapter 20

AMERICAN SAMOA COMMUNITY COLLEGE

Sections:

- 16.2001 Establishment of American Samoa Community College.**
- 16.2002 Powers and duties of the college.**
- 16.2003 Establishment of the Board of Higher Education.**
- 16.2004 Board of Higher Education, powers and duties.**
- 16.2005 President of the College.**
- 16.2006 Personnel.**
- 16.2007 Assumption of Role.**
- 16.2008 Budget.**
- 16.2009 Fiscal Management.**
- 16.2010 Independent Audit Reports, Consultants, Annual Reports.**
- 16.2011 American Samoa Community College Land Grant Endowment Fund.**

16.2001 Establishment of the American Samoa Community College.

There is establishment an institution of higher learning known as the American Samoa Community College within the executive branch of the government.

History: 1992, PL 22-30.

16.2002 Powers and duties of the College.

The American Samoa Community College:

- (1) may sue and be sued;
- (2) may adopt and use a seal;
- (3) may make contracts, as authorized in this chapter;
- (4) may adopt, amend and repeal bylaws;
- (5) may purchase or lease and hold personal property it considers necessary or convenient in the transaction of its business, may dispose of personal property held by it;
- (6) has the power in the name of the government to purchase, lease, or sell real estate, and accept title to that real estate in the name of the government; to accomplish the

purposes of this chapter;

(7) may procure or contract for the procurement of supplies, equipment, materials, personal services other than by employees, and construction with any public or private entity upon terms and conditions as it finds necessary to the full and convenient exercise of its purposes and powers, subject to all applicable laws and rules of American Samoa; and shall receive and account for its inventory of materials;

(8) shall develop a program of education to meet the current and future needs of American Samoa, which shall be accredited under appropriate procedures existing in the United States for higher education;

(9) shall develop and establish a Samoan and Pacific Studies Program to promote interest in, and awareness of the culture, including language, and affairs of American Samoa and other islands of the Pacific; the Samoan and Pacific Studies Program shall include, but not limited to programs for the development of cultural, educational, training, and research programs for the people of Polynesia and other islands of the Pacific.

(10) shall develop and establish an Adult Education and Literacy Program for American Samoa;

(11) shall develop and establish a program in response to Federal laws relating to the Land Grant Program;

(12) shall fix schedules of tuition rates and fees for educational service and shall establish rules and procedures, in accordance with 4.1001 et seq., for the provision of such services;

(13) may accept on behalf of the government from any other government or governmental agency, or from any other public or private body, or from any other source, grants, contributions of money or property which the college may use for or in aid of any of its purposes;

(14) adopt other rules pursuant to 4.1001 et seq., not inconsistent with the provisions of this chapter or with the rules of government, that are necessary and proper for the administration and operation of the college;

(15) exercise all other powers, not inconsistent with the provisions of this chapter or with the rules of the government, which may be reasonably necessary or incidental to the establishment, maintenance, and operation of an institution of higher learning.

History: 1992, PL 22-30.

16.2002 Establishment of –Board of Higher Education.

(a) The Board of Higher Education is established. The Board shall consist of the Director of Education and 7 members, 6 of whom are appointed by the Governor with the advice and consent of the Legislature. The Board members shall serve without compensation or other emoluments.

(b) In order to provide continuity in the work of the Board, the term of office of 6 of the Board members shall be for 4 years and shall be so arranged as not to expire at the same time. Members shall serve until their successors have been qualified. Vacancies shall be filled in the same manner as original appointments.

The 7th member of the Board is a 2nd year student of the college elected at a schoolwide election during the first week of school. This member serves a one-year term and may be reelected. Vacancies are filled by an election held within 1 week of the knowledge of a vacancy.

History: 1992, PL 22-30.

16.2004 Board of Higher Education--Powers and duties.

The Board of Higher Education, in addition to other provisions of this chapter:

- (1) shall serve in a supervisory capacity and as such, shall function to supervise the implementation of the powers and duties of the college;
- (2) shall select its chairman and other officers from among its own membership;
- (3) may change the name of the college, with approval of the Legislature;
- (4) shall review and approve the educational program of the college;
- (5) shall grant diplomas, certificates, degrees or other honors; and
- (6) shall adopt the seal of the college.

History: 1992, PL 22-30.

16.2005 President of the College.

The Board of Higher Education shall select the President of the college. The selection of the President shall conform to rules, regulations and criteria promulgated by the board and made available for public inspection. Subject to government employee laws 7.0101 et. seq., and rules and procedures of the college, the President serves at the pleasure of the Board.

History: 1992, PL 22-30, 2003, PL 28-1.

16.2006 Personnel.

All officers and employees of the college, except the president, are appointed or hired and compensated in accordance with the requirements of the government employee laws 7.0101 et. seq., except that the college may adopt administrative rules, pursuant to 4.1001 et seq., to supplant government employee laws and rules in the specific categories of personnel recruitment, assignment, transfer, employment, termination of employee services, disciplinary actions, and compensation at levels comparable to higher education management and employee levels.

History: 1992, PL 22-30.

16.2007 Assumption of role.

The college shall assume, upon approval of this Act, full responsibility and right to operate all items of property, including any construction in progress, equipment, and machinery used under the previous status of operation by the college. All property jointly used by the college and government, except the infirmary located on campus, are hereby transferred to the college. Future capital contributions to the college from the government must be by separate authorization and appropriation. The Legislature has the exclusive power to provide supplemental funding for the operations of the college.

History: 1992, PL 22-30.

16.2008 Budget.

(a) The basic source of financing the college is the government through its regular budget process. The government shall provide a minimum appropriation from local revenues for the operation and programs of the college based on the actual cost of \$2,820 per full time equivalent student, as has been determined by current, actual fall and

projected spring and summer class schedules, with an annual inflationary adjustment of 4.8 percent.

(b) At the appropriate time the college shall submit to the Governor, upon approval of the board, a budget of estimated expenditures for the next fiscal and academic years. The budget shall contain separate estimates for capital outlay expenses and operational expenses and shall be submitted in such form and detail as may be required by applicable laws and rules of the government.

(c) Each budget shall identify clearly the amount or amounts requested to be appropriated, the amount or amounts available or estimated to be available from gifts, grants, donations, or other sources, and the amount or amounts for which application is being made or is to be made for federal aid.

History: 1992, PL 22-30.

16.2009 Fiscal Management

Further to 16.1001 and 16.1004, the college is responsible for the management and operation of its fiscal affairs. It shall establish procedures based on principles of sound bookkeeping and fiscal management, with the approval of the Board, for the administration of all accounting systems, including but not limited to general ledger, fixed assets, accounts receivable, accounts payable, payroll, and cash. The college shall submit quarterly performance reports to the Office of Program Planning and Budget as required by 10.0509.

History: 1992, PL 22-30.

16.2010 Independent audit reports--consultants--Annual Reports.

(a) The college shall employ a firm of independent certified public accountants to examine and report each year upon the status of financial records and accounts, and may renew that employment annually. Copies of these reports shall be furnished by the college to the Governor and Legislature.

(b) The college may make intergovernmental or contractual agreements for expert consultants to advise or consult with it in all matters related to the operation of the college, including tuition fees, systems design, plant design, planning, budgeting, and legal matters.

(c) The college shall provide an annual report for each fiscal year, which shall estate investment trusts, and other securities selected by the Board with the care of a prudent man. The word "property" excludes lands for sites or experimental farms of the college, and buildings including the purchase, erection, and preservation or repair thereof, except as permitted by federal laws.

History: 1992, PL 22-30.

16.2011 American Samoa community college land grant endowment fund.

(a) For the purpose of compliance with federal law designating the American Samoa Community College as a Land Grant College established for the benefit of agriculture and mechanical arts, there is established the American Samoa Community College Land Grant Endowment Fund. The Fund shall be maintained separate and apart from any other funds of the government. Use of the fund shall be administered and controlled by the Board of Higher Education. Independent records and accounts shall be maintained in

connection with the fund by the Treasurer of American Samoa. An annual fiscal year financial statement of the fund shall be submitted by the Board of Higher Education and the Treasurer to the Governor and Legislature no later than 15 December 1987.

(b) The \$3,000,000 received from the United States Government in support of the college as a Land Grant College is hereby credited to the Fund. The Board of Higher Education and Government shall comply with all conditions pertaining to the Fund and the income therefrom as set forth in federal laws, including but not limited to the requirement that the principal sum shall remain forever undiminished.

(c) All income from investment of the principal sum shall be credited to the account of the Fund, and shall be appropriated by the Legislature in the annual fiscal year appropriations act solely for the operation of the Land Grant programs of the college. Appropriations of income shall be made only after the Board of Higher Education has submitted to the Legislature recommendations on the use of the income. The Legislature may authorize reinvestment of the income to accumulate sufficient funds for specific purposes, related to land grant operations.

(d) The Board of Higher Education has full power and authority, subject to approval of the Legislature, to direct the investment and reinvestment of the fund without distinction between principal and income as it considers desirable; as long as the investment income is available for appropriation in accordance with subsection (c) in property as defined in subsection (e) provided that the investment shall yield a fair and reasonable annual rate of return, which is fixed at no less than 5 percentum per annum of the amount invested. The Board may invest and reinvest the fund in property in which a prudent man familiar with those matters and using care, skill, prudence, and diligence would invest in the conduct of an enterprise of like character and with like aims, insuring that the investments of the fund are diversified so as to minimize the risk of large losses unless to do so would clearly not be prudent. The power to manage investments includes, but is not limited to, the power to hold, purchase, sell, convey, assign, transfer, dispose of, lease, subdivide, or partition any assets held or proceeds thereof, to execute or cause to be executed relevant documents; to enter into protective agreements, executives proxies, and grant consent; and to do all other things necessary or appropriate to its position as an owner or creditor.

(e) Except as otherwise provided herein, the word "property" means real property, United States Government securities and agency issues, state and municipal bonds, corporate bonds, real estate mortgages, common and preferred stock, mutual funds, convertibles, real estate investment trusts, and other securities selected by the Board with the care of a prudent man. The word "property" excludes lands for sites or experimental farms of the college, and buildings including the purchase, erection, and preservation or repair thereof, except as permitted by federal laws.

History: 1992, PL 22-30.

Chapter 21

AMERICAN SAMOA COLLEGE RESEARCH FOUNDATION

Sections:

- 16.2101 American Samoa College Research Foundation established.**
- 16.2102 Research foundation—Objective and functions.**
- 16.2103 Foundation—Corporate powers.**

- 16.2104 Board of Trustees.**
- 16.2105 Board—Powers and duties.**
- 16.2106 Personnel—Duties.**
- 16.2107 Investment of funds.**
- 16.2108 Conflicts of interests— Prohibited acts.**
- 16.2109 Existence for public education benefit—Tax exempt status—Liability for obligations.**
- 16.2110 Accounting and budget.**
- 16.2111 Independent audit reports—Annual reports.**
- 16.2112 Malfeasance of director.**
- 16.2113 Larceny and fraud—Penalty.**

16.2101 American Samoa College Research Foundation established.

There is established the American Samoa College Research Foundation. The Foundation shall be a non-profit, tax exempt public corporation having the purpose of supporting the American Samoa Community College in accordance with this chapter. The Foundation shall have neither members nor stock. This chapter is the charter of the Foundation.

History: 1987, PL 20-22 § 2.

16.2102 Research Foundation—Objective and functions.

The functions of the Foundation are to:

(a) Promote all educational, scientific, literary, Samoan cultural and humanitarian pursuits by encouraging, initiating, aiding, supplementing, developing and implementing educational programs which contribute to the attainment of the goals and objectives of the College.

(b) Enter into and administer grant contracts or agreements with federal, territorial and international governmental agencies, and other relevant agencies, which will enable the research foundation to perform the functions stated in subsection (a).

(c) Receive and administer funds from grants, contracts, endowments, individuals, gifts or bequests of property and to prudently invest such in a manner that will promote maximum financial growth.

(d) Serve as trustee or beneficiary under terms of gifts, endowments, indentures or wills.

(e) Apply for, and obtain, receive, hold, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes and other property.

(f) Conduct research, studies, investigations, experiments and tests in all fields of study.

(g) Coordinate and correlate all other activities of the college, both administrative and fiscal, as are delegated to the Foundation from the Board of Higher Education.

(h) Establish, maintain, or assist in the establishment and maintenance of scholarships, professorships, sabbatical leaves and staff positions at the college.

(i) Prepare, print and publish manuscripts, research articles, reports, and documents of similar nature.

History: 1987, PL 20-22 § 2.

16.2103 Foundation--Corporate powers.

The corporate powers of the Foundation shall be as follows:

(a) The Foundation shall begin its corporate existence upon the issuance of a certificate of incorporation by the Treasurer after approval by the Governor.

(b) The principal office of the Foundation shall be located on the island of Tutuila, American Samoa.

(c) The Foundation is authorized to engage in and carry out the functions set forth in section 16.2102.

(d) In performing the functions authorized in subsection (c), the Foundation shall have and exercise all lawful powers normally exercised by eleemosynary corporations under the laws of American Samoa not inconsistent with the provisions of this chapter, including but not limited to the following:

(1) adopt, alter and use a corporate seal;

(2) adopt, amend and repeal bylaws governing the conduct of its business and exercise of its powers;

(3) sue and be sued in its corporate name;

(4) acquire in any lawful manner, real, personal, or mixed property, either tangible or intangible, to hold, maintain, use and operate such property, and to sell, lease, or otherwise dispose of such property.

(e) The bylaws shall provide for the management of the business of the Foundation, the organization, meetings, and procedures of the Board, the duties of the officers of the Foundation the officers required to furnish bonds and the amounts thereof, the form of the seal of the Foundation and the preparation and submission of required reports. Bylaws may not be adopted, amended or repealed except after one week's written notice to each trustee.

History: 1987, PL 20-22 § 2.

16.2104 Board of Trustees.

(a) The affairs and corporate powers of the Foundation shall be managed and exercised by a Board of Trustees.

(b) There shall be 11 members of the Board, nine whom shall be voting members and two of whom shall be non-voting ex-officio members. The voting members shall be comprised of 1 paramount chief or other traditional community leader, 1 member of the Board of Higher Education other than the chairperson, 1 member of the college administrative staff other than the President, 2 members of the college faculty, 3 members of the general public, and 1 member of the college student government association. The non-voting ex-officio members shall be the President of the college, who shall be the Chairperson of the Board, and Chairperson of the Board of Higher Education.

(c) The first Board shall be chosen by the 2 ex-officio members in compliance with representative capacities set forth in subsection (b) and serve terms of 18 months from the issuance of the certificate of incorporation of the Foundation.

(d) Other than the student, college administrative staff and college faculty members, succeeding Boards shall be elected by the incumbent members from nominations by the general public and serve terms of 1 year. Nominations shall be solicited from the general public no later than 90 days and the election shall be held no later than 30 days before the end of the term of office of the current Board. Elections shall be by secret ballot requiring two-thirds majority to win.

(e) The student member shall be elected by the members of the student government

association. The college faculty members shall be elected by the college faculty. The college administrative staff member shall be appointed by the college president.

(f) Vacancies in the Board by reason of resignation, death or other cause shall be filled for the remainder of the term of office by appointment of the Chairperson; provided that the appointment fulfills the membership category requirement of the vacancy.

(g) The initial meeting of the Board shall be convened by the Chairperson at which time they shall elect a vice-chairperson, secretary, and treasurer.

(h) Five voting members of the Board shall constitute a quorum and the concurrence of a majority of the members present shall be necessary for the validity of its official actions.

(i) The Chairperson shall be the agent of the Foundations upon whom any process, notice or demand required or permitted by law to be served upon the Foundation may be served. In the absence of the Chairperson, any other member of the Board shall be the agent for receiving service of process, notice or demand.

History: 1987, PL 20-22 § 2.

16.2105 Board--Powers and duties.

(a) The Board shall have the following powers and duties:

(1) serve as Trustees of the Foundation;

(2) enter into and be responsible for the performance of local, territorial, federal and international contracts and grants;

(3) sell, lease, rent, hold, maintain, use and operate any property held by the Foundation in accordance with applicable law;

(4) coordinate programs with the Community College, government and any other relevant agency;

(5) stimulate and promote cooperative educational projects and activities;

(6) establish, maintain, or assist in the establishment and maintenance of scholarships, professorships and sabbatical leaves;

(7) be available for monthly Board meetings;

(8) refrain from political activities or pressures when dealing with Foundation business; and

(9) do all acts reasonably necessary to carry out the functions of the foundation.

(b) The Board may establish standing or ad hoc committees to assist in carrying out its powers and duties.

History: 1987, PL 20-22 § 2.

16.2106 Personnel—Duties.

(a) The Board shall appoint an Executive Director of the Foundation. The Executive Director shall be in charge of the administration of the detailed affairs of the Foundation. He shall keep all books, records, files, and accounts of the Foundation. He shall prepare periodic reports relative to the operations of the Foundation and an annual report at the close of each fiscal year reflecting the results of the financial operations of the Foundation and embodying all important financial and statistical data pertinent to its operation.

(b) Subject to the approval of the Board, the Executive Director may employ an assistant director and such clerical and other staff as shall be necessary for the proper administration of the Foundation. Subject to the approval of the Board, the Executive

Director may also engage legal, accounting or other professional services to assist in the affairs of the Foundation.

(c) The Executive Director, assistant director and full-time clerical and other staff are employees of the government, under the direction of the Board, not career service employees. Their paychecks are to be issued by the government, and the Board will promptly reimburse the government for all such direct expenses.

(d) Subject to Board approval, the Chairperson will appoint the research and development administrator of the college to serve as the liaison between the college and the Foundation. The research and development administrator will have the primary responsibility of establishing regional, national and international linkages, securing funding sources and grants or contracts and will report directly to the Board Chairperson. This person will not be a member of the Board but will serve as the educational grants consultant to the Board. This position is a college administrative position but will be located in the Foundation office and serve as part of the Foundation administrative team.

History: 1987, PL 20-22 § 2.

16.2107 Investment of funds.

(a) The Board has full power and authority to direct the investment and reinvestment of the fund of the Foundation without distinction between principal and income, in property (defined in (b) below) it considers advisable. The Board may invest and reinvest the fund in property in which a prudent man familiar with those matters and using care, skill, prudence, and diligence would invest in the conduct of an enterprise of like character and with like aims, insuring that the investments of the fund are diversified so as to minimize the risk of large losses unless to do so would clearly not be prudent. The power to manage investments includes, but is not limited to, the power to hold, purchase, sell, convey, assign, transfer, dispose of, lease, subdivide, or partition any assets held or proceeds thereof, to execute or cause to be executed relevant documents: to enter into protective agreements, execute proxies, and grant consent, and to do all other things necessary or appropriate to its position as an owner or creditor.

(b) "Property" means and includes real, personal, and mixed property of any and every kind and nature, including but not limited to, bonds, preferred or common stocks, mortgages, interests in any kind of investment trust or common trust fund, notes, leases, oil or gas royalties, or other evidence of rights, interests or obligations, secured or unsecured, and whether or not they are of a wasting asset nature.

(c) All proceeds and income from investments, of whatever nature, must be credited to the account of the Foundation. Transactions in marketable securities are carried out at prevailing market prices.

(d) Investments may be held in bearer form, or may be registered either in the name of the Fund or the nominee of the custodian.

(e) Due bills may be accepted from brokers against payment for securities purchased, pending delivery within a reasonable period of time of certificates representing the investments.

(f) Investments may not be made if, after the investment, the Foundation would own:

(1) any combination of obligations of any one political subdivision, corporation or other single issuing entity in excess of five percent of Foundation assets at cost. This paragraph does not apply to general obligations of the United States or the Dominion of Canada, or of the government; or

(2) obligations of the Dominion of Canada, together with its political subdivisions and corporations organized under its law or the law of its provinces in excess of 10 percent of Foundation assets at cost: or

(3) obligations or other investments issued or guaranteed by the government in excess of 10 percent of Foundation assets at cost; provided, however, that this limitation does not apply to the obligations or other investments that are unconditionally guaranteed as to principal and interest by, or supported by lease assignment from, another entity whose principal business is outside of American Samoa.

(g) The Board may engage one or more financial institutions as custodians to assume responsibility for the physical possession of Foundation investment assets or evidences of investment assets. The custodian submits reports, accounting, and other information in a form and at such time as requested by the Board. All costs incurred for custodial services are paid by the Foundation. The custodian holds all investment assets for the account of the Foundation and acts only upon instructions of the Board. Custodians may not be engaged unless they:

(1) have been continuously engaged in rendering trust investment services for a period of 10 or more years;

(2) are organized under the laws of the United States, a State, or a Territory; and

(3) are custodians for not less than 20 corporate, municipal or governmental trust funds with total assets of not less than \$30,000,000.

(h) In order to secure expert advice and counsel, the Board may engage an investment agent or a firm or corporation which is an investment counselor as qualified by this subsection. The custodian may be engaged as the investment agent. All costs incurred in this connection are paid by the Foundation. Firms or corporations may not be eligible for employment as investment agent which acts as principal for its own account or as broker for a client other than the Foundation in connection with the sale of any security to or the purchase of any security from the Foundation. Investment agents may not be engaged unless:

(1) the principal business of the firm or corporation selected by the Board consists of rendering investment supervisory services: i.e., the giving of continuing advice concerning investment of funds on the basis of the individual needs of each client; and

(2) the principal control of the firm or corporation rests with individuals who are actively engaged in the business; and

(3) the person, firm, or corporation is registered as an investment advisor under the United States law;

(4) the contract between the board and the investment agent is of no specific duration and is voidable at any time by either party; and

(5) the person, firm, or corporation certifies, in writing, to the Board, that the assets under its direct investment supervision are in excess of \$30,000,000. The Board establishes and may from time to time change operating arrangements with the investment agent in order to facilitate efficient management and timely investment action. Investment may not be made unless in the opinion of the investment agent it is an appropriate investment for the Foundation and is an authorized investment, or in the absence of that opinion, unless preceded by a resolution of the Board directing the investment.

History: 1987, PL 20-22 § 2.

16.2108 Conflicts of interests—Prohibited acts.

A member or an employee of the Board may not have any direct or indirect interest in the income, gains or profits on any investment made by the Board, or receive any pay or emolument for services in connection with any investment made by the Board. A member or an employee of the Board or an agent engaged by the Board may not become an endorser or surety or in any manner an obligor of investment made by the Foundation or for money loaned by or borrowed from the Foundation nor may the members, employees, or agents be held liable for actions taken in good faith and in performance of their duties.

History: 1987, PL 20-22 § 2.

16.2109 Existence for public education benefit--Tax exempt status--Liability for obligations.

The Foundation exists and operates solely for the benefit of public education and is exempt from any taxes or assessments on any of its property, operations, or activities. The Foundation is liable for its debts and obligations. The government is not responsible for any such debts or obligations except in such cases where federal program regulations require provisional support by a government agency or the government itself.

History: 1987, PL 20-22 § 2.

16.2110 Accounting and budget.

The Foundation shall have full responsibility for the accounting and financial management of the Foundation, and shall administer or contract with the government for the administration of all accounting systems, including general ledger, fixed assets, accounts receivable, accounts payable, payroll, and cash. It shall establish proper internal accounting controls and procedures, and it shall prepare an annual budget for American Samoa Government allocated funds as a part of the Governor's budget process.

History: 1987, PL 20-22 § 2.

16.2111 Independent audit reports—Annual reports.

(a) The Foundation shall employ a firm of independent certified public accounts, subject to the approval of the Chairperson, to examine and report upon the status of financial records and accounts. This examination shall culminate in an annual audit of all grants, investments, operational funds, and any other necessary standards. The full Board shall serve as the Foundation's audit review committee and shall meet with the auditors. Copies of the audit reports shall be furnished to the Governor, the Legislature, the Board, the College President, and made available to the public. The employment of the independent certified public accounting firm may be renewed annually.

(b) The government shall have the right through the Territorial Audit Office to examine the affairs of the foundation at reasonable intervals to insure that the Foundation is operating its affairs on a sound businesslike basis.

(c) The Foundation shall provide an annual report for each fiscal year to the President of the Community College, Governor, the Legislature, and the people of American Samoa, not later than December 31.

History: 1987, PL 20-22 § 2.

16.2112 Malfeasance of Director.

Any director who, under color of his office, violates any law or knowingly or negligently permits any officer, agent, or employee of the Foundation to violate any law, or any provision of the Foundation's charter or bylaws, shall be subject to removal from the Board by petition to the High Court of American Samoa. If the court finds that the respondent director is subject to removal under this section, the court shall order his removal and provide for such other relief as the court deems just and appropriate.

History: 1987, PL 20-22 § 2.

16.2113 Larceny and fraud—Penalty.

Any director, officer, employee, or agent of the Foundation who, with the intent to injure or defraud the Foundation or any other person, embezzles, steals, or misapplies any moneys, funds, credits, or securities; makes any false entry in a book, report, or record; or performs any other fraudulent act; and any person who, with like intent, aids or abets any director, officer, employee or agent in any of the acts described in this section is guilty of a class C felony.

History: 1987, PL 20-22 § 2.

Chapter 22—24

(RESERVED)

Chapter 25

STUDENT FINANCIAL AID

Sections:

- 16.2501 Repealed.**
- 16.2501.1 Definitions.**
- 16.2502 Student Financial Aid Fund established.**
- 16.2503 Student Financial Aid Board—Members—Term.**
- 16.2504 Board—Powers—Duties.**
- 16.2505 Financial aid— Amount—Exceptions.**
- 16.2506 Financial aid--Duration--Renewal--Conditions.**
- 16.2507 Financial aid--Eligibility.**
- 16.2508 Financial aid categories.**
- 16.2509 Financial aid--Contracts--Obligations--Exceptions.**
- 16.2510 Student travel grant.**
- 16.2511 On-island students.**
- 16.2512 Job opportunity reports.**
- 16.2513 Counseling for applicants for student financial aid--Monitoring of recipients.**

Reviser's Comment: Section 1 of PL 17-36 set out new chapter title.

16.2501 Limit.

Repealed by PL 17-36 § 1.

16.2501.1 Definitions.

As used in this chapter unless the context otherwise requires:

- (a) "Board" means the Student Financial Aid Board.
- (b) "Education costs" means those costs of a student's tuition, laboratory fees, books and supplies, room and board, and college-offered health or hospital insurance coverage.
- (c) "Education institution" means an accredited institute of higher learning.
- (d) "Financial aid" means a scholarship, grant, loan, or any other monetary assistance provided by the board for postsecondary education pursuant to this chapter.
- (e) "Financial need" means need for financial assistance as defined in the federal law at 20 U.S.C. § 1089, as amended, and as further defined by or qualified in the Code of Federal Regulations.
- (f) "Full-time student" means a student attending an educational institution taking not less than 12 credit hours per academic term or semester.
- (g) "Scholastic achievement" means the results of competitive college entrance examinations. TOEFL the student's cumulative G.P.A. and other special academic projects completed by the student while attending a secondary educational institution.
- (h) "Student" means a person enrolled and regularly pursuing studies at an educational institution.

History: 1982, PL 17-36 § 3; amd 1985, PL 19-34 § 1.

Amendments: 1985 Subsection (e). added.

Subsection (f) relettered from former subsection (e).

Subsection (s): added.

Subsection (li) relettered from former subsection (g).

16.2502 Student financial aid fund established.

A separate, segregated fund known as the "Government of American Samoa Student Financial Aid Fund" is established.

History: 1982, PL 17-36 § 4.

16.2503 Student Financial Aid Board--Members--Term.

(a) A Student Financial Aid Board is established. The Board shall consist of 7 members, 5 members are appointed by the Governor, 2 members are appointed from the Legislature: one from the Senate appointed by the President of the Senate and one from the House appointed by the Speaker of the House; and confirmed by the Legislature. In addition to the 7 appointed Board members, the Director of Education, the Director of the Office of Manpower Resources, and the President of the American Samoa Community College shall serve as ex officio Board members without vote.

(b) The term of office for a member of the Board shall be 4 years and members shall serve until their successors have been qualified. Vacancies shall be filled in the same manner as the original appointments of the members of the Board.

History: 1982, PL 17-36 § 5.

16.2504 Board—Powers—Duties.

(a) The Board shall:

- (1) promulgate rules pursuant to 4.1001 et seq. and develop policies necessary to

implement this chapter: and

- (2) administer the fund established under 16.2502 of this chapter; and
- (3) develop with the assistance and approval of the Attorney General a standard and uniform contract for each category of financial aid award; and
- (4) administer funds appropriated for purposes of this chapter; and
- (5) apply for, receive and administer federal and private funds; and
- (6) actively pursue the establishment of cooperative placement programs and financial assistance available from educational institutions; and
- (7) cooperate with the Office of Manpower Resources to develop employment opportunities for a student who has received financial aid and who intends to return to the Territory following the student's graduation from an educational institution: and
- (8) consider letters of reference or support from teachers, counselors, principals, employers and other persons with specific knowledge of the student's character and abilities, before awarding any financial aid; and
- (9) submit to the Legislature bi-annual reports detailing the balance in the fund; fund expenditures and receipts for each reporting period; and cumulative fund expenditures and receipts for the fiscal year.

(b) The Board may:

- (1) elect a chairman and other officers that are found to be necessary; and
- (2) employ with approval of the Governor, personnel necessary to implement this chapter: and
- (3) reduce any financial aid except a government scholarship by the amount a student later receives in the form of an extraterritorial scholarship, grant, fellowship or other categorical assistance, provided notice is given the student in the contract authorized under 16.2509.

History: 1982, PL 17-36 § 6.

16.2505 Financial aid--Amount--Exceptions.

Except in the case of a government scholarship, financial aid awarded by the Board must be adequate to meet the educational costs of the student less all other financial assistance available to the student. Government scholarships awarded by the Board under 16.2508 shall not be based upon the financial need of the applicant or other financial assistance available to the applicant.

History: 1982, PL 17-36 § 7.

16.2506 Financial aid—Duration—Renewal— Conditions.

(a) Financial aid shall normally be for one year except when the Board determines the financial aid for a specific student should be of longer or shorter duration.

(b) A student otherwise eligible under this chapter and who complied with the conditions under subsection (c), shall be entitled to priority consideration by the Board when the student applies for a renewal of the financial aid.

(c) Financial aid of any student may be canceled by the Board if the student:

- (1) is not a full-time student; or
- (2) does not comply with the policy of the educational institution governing overall grade-point averages, including any probationary periods provided by that policy: or
- (3) does not authorize the registrar of the educational institution to send a copy of the student's grade report or transcript to the Board after each academic term or semester; or

(4) transfers to another educational institution without the prior written approval of the Board.

History: 1982, PL 17-36 § 8.

16.2507 Financial aid—Eligibility.

Financial aid may only be awarded to an applicant who:

(a) is a United States national, or a United States citizen, or an American Samoan as defined in 41.0202(l)(c), or a permanent resident of American Samoa in accordance with 41.0401 et seq., or a person legally adopted in accordance with 45.0401 through 45.0431; and

(b) is a legal resident of American Samoa as defined under 6.0212 and in compliance with any applicable immigration laws of the government except that the residence of the parent, parents or legal guardian of a minor shall be presumed to be the legal residence of that minor; and

(c) has been accepted to or is attending an educational institute.

History: 1982, PL 17-36 § 9; amd 1985, PL 19-34 § 2.

Amendments: 1985 Subsection (a): changed references to definitions in Title 41.

16.2508 Financial aid categories.

(a) The board shall administer the awarding of the following categories of student financial aid:

(1) Scholarships. One category is government scholarships awarded to eligible applicants based solely upon the applicant's competitive college entrance examination test scores, TOEFL, and G.P.A., without regard to the financial need of the applicant. Government scholarships shall be for uniform amounts, as determined and published by the Board prior to the competitive examinations. An amount not less than 10 percent of the monies available in the fund each year must be allocated by the Board for scholarship awards.

(2) Grants-in-aid. One category is grant-in-aid awarded to eligible applicants pursuing specific areas of study or research which are designated by the Board as areas of particular need and importance in American Samoa. Grants-in-aid shall be awarded upon an applicant's scholastic achievement and the area of study chosen by the student for pursuit at an educational institution, without regard to financial need.

(3) Student loans. One category is student loans awarded solely on the basis of a student's financial need. Loans may be paid directly to the student, or to the educational institution, or both, at the discretion of the Board.

(4) Other categories which the Board deems appropriate.

(b) The Board shall establish minimum standards of scholastic achievement for awarding financial aid under this section. The academic standards established for applicants for scholarships shall be at least 10 percent higher than the standards established for applicants for grants-in-aid.

(c) A student may apply for more than one category of financial aid.

History: 1982, PL 17-36 § 10; amd 1985, PL 19-34 § 3.

Amendments. 1985 Subsection (a): added letter designation; deleted "establish by rule no less than 2" and added "administer the awarding of the following".

Subsection (a)(l): deleted "of these categories must be a" and added "category is"; deleted "by

competitive examinations. Scholarship awards must be awarded” and added “based”; added “college entrance examination” and “TOEFL, and G.P.A”: deleted “publicized” and added “published”; deleted “moneys” and added “monies”.

subsection (a)(2): deleted and replaced.

Subsection (a)(3): added.

Subsection (a)(4): added.

Subsection (b): added.

Subsection (c): added.

16.2509 Financial aid--Contracts--Obligations--Exceptions.

Financial aid must be awarded by written contract except in the case of government scholarships. All contracts for each category of financial aid must contain a uniform condition requiring the repayment of all or part of the financial aid plus reasonable interest. The repayment may be by direct installment payments to the Board for a limited period or by other methods considered proper by the Board. The Board may waive repayment for those persons who become employed by the government or private industry in American Samoa after graduation for a period equal to the number of scholastic years financed by the Board or shorter duration if determined equitable by the Board. Further, the contract with any student who is a government employee shall contain a condition obligating the student to return to government employment for a period of time equal to the time enrolled under this program and which obligates the government to provide employment in or as closely related to as possible that student’s field of study. In addition, the Board may include in any contract with a student those special conditions considered necessary and proper by the Board.

History: 1982, PL 17-36 § 11; amd 1985, PL 19-7 § 1.

Amendments: 1985 Added “or private industry in American Samoa”.

16.2510 Student travel grant.

In addition to the amount of any financial aid, each recipient of financial aid is entitled to air transportation at the standard economy rate for commercial carriers from American Samoa to the educational institute. Return air transportation at the same rate shall be provided under conditions established in rules adopted by the Board.

History: 1982, PL 17-36 § 12.

16.2511 On-island students.

Notwithstanding any provision of this chapter to the contrary, the Board may award financial aid to any person enrolled at the American Samoa Community College. The Board may establish conditions of eligibility by rule to implement this section.

History: 1982, PL 17-36 § 13.

16.2512 Job opportunity reports.

The Office of Manpower Resources and the Office of Economic Development and Planning shall annually supply the Board before 1 February, a list of potential public and private enterprise employment opportunities for college graduates during the remainder of the fiscal year. The Board promptly transmits this information to students receiving financial aid who are expected to graduate before the end of the fiscal year. In addition, every 2 years before 1 February, the Office of Manpower Resources and the Office of Economic Development and Planning shall supply the Board with a report detailing projected public employment and private enterprise employment needs for the next 5

years. The Board promptly transmits copies of this report to all high schools in the Territory, the American Samoa Community College, and students receiving financial aid from the Board.

History: 1982, PL 17-36 § 14.

16.2513 Counseling for applicants for student financial aid--Monitoring of recipients.

(a) The Director, Department of Education shall, upon the request of an applicant for student financial aid, provide individual counseling and assistance regarding the application process and the appropriate category of aid for which an applicant should apply, and shall assist all applicants in obtaining financial aid information from educational institutions.

(b) The Director, Department of Education shall be responsible for monitoring recipients of student financial aid to determine whether a recipient is complying with the conditions in section 16.2506 (c).

History: 1985, PL 19-34 § 4.