

THIRD SPECIAL SESSION, 1998

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**AN ACT**

To authorize non-public schools to operate without certain governmental regulations, and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

Section 1. Statement of Purpose. The Legislature finds that the CNMI's non-public schools are a valuable asset to the Commonwealth. Non-public schools currently serve over 3,000 of our children who would otherwise be enrolled in the already overcrowded public school system. In addition, we anticipate that the number of children enrolled in both school systems will continue to rise. This law allows non-public schools and their teachers and librarians to act in an independent manner and allows the Board of Education to focus their energies and resources on their primary area of responsibility, the public school system.

The Legislature further finds that the government's interest of ensuring that the well-being of its citizens is protected in the basic areas of health, safety, minimum core curriculum, length of school year, and teacher certification standards can be accomplished without having to charter non public schools.

Furthermore, the Legislature finds that if private school teachers and librarians are removed from the certification process there no longer exists a reason to have the Board of Education issue teacher and librarian certificates. The Legislature finds that transferring the authority to certify public school teachers and librarians and the authority to revoke certification to the Commissioner of Education will enable the Public School System to improve its ability to track certification and employment.

Section 2. Repealer. The following are hereby repealed:

(a) 1 CMC §2268(q) relative to the Board of Education's authority to issue charters to non-public schools.

(b) 3 CMC § 1171 relative to procedures for establishing a non-public school.

Section 3. Section Heading Amended: Reference Removed. Amend the section heading of 3 CMC, § 1172 to read as follows:

“§ 1172. Non-Public Education: Government Assistance to Non-Public Schools.”

Section 4. Amendment. Amend 3 CMC § 1141 to read as follows:

“§ 1141. Elementary and Secondary.

Every person between the ages of six and sixteen shall attend a public or non-public school until the completion of the eighth grade. Any parent, guardian, or other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to such schools. The Commissioner may grant individual waivers to this compulsory attendance requirement in cases of home study or other circumstances.”

Section 5. Amendment. Amend 3 CMC § 1152(a) to read as follows:

“(a) The Board shall provide safe, adequate transportation to and from school for special education, pre-school, elementary and secondary students of the Commonwealth who reside beyond a reasonable distance from the school they attend which shall be determined by the board. These students must be registered in a public or non-public school. The students must also be enrolled as full time day students, except that the Board may provide such transportation to other students.”

Section 6. Amendment. Amend 3 CMC § 1162 to read as follows:

“§ 1162. Immunization Program Authorized in Public and Non-Public Schools.

The Department of Public Health may, after consultation with the Public School System, and non public schools establish an immunization program to be carried out within the Commonwealth schools.”

Section 7. Amendment. Amend 3 CMC § 1181(a), (b), (c) and (d) as amended by section 4 of P.L. 10-62 to read as follows:

“(a) No person shall serve as a teacher or librarian in any public school in the Commonwealth without first having obtained a certificate from the Commissioner of Education, in such form as the board determines. The qualification requirements for such certificate shall be determined by the Board.

(b) All applicants for certification must provide a full set of fingerprints to the Commissioner of Education to enable a criminal background investigation to be

conducted. The Commissioner is authorized to submit the completed fingerprint card(s) to the Department of Public Safety. The Department of Public Safety is authorized to submit the fingerprints to the FBI or to any other country's equivalent law enforcement agency for a national criminal history record check. The information obtained from the national criminal history record check conducted pursuant to this section may be used by the Department of Public Safety and/or the Commissioner to determine the applicant's eligibility for employment and/or certification. Applicants may be employed on a temporary basis pending completion of the investigation.

(c) The Public School System shall also require applicants for non-teaching or non-librarian positions which will have regularly scheduled unsupervised access to children within any public school to submit to the above mentioned fingerprinting process.

(d) All certified teachers and librarians who are employed by a public school within the Commonwealth on the date this law becomes effective, shall submit to the above mentioned fingerprinting process within 180 days of the date this law becomes effective.”

Section 8. Amendment. Amend 3 CMC § 1181 (a), (b), (c), (d) and (e) and to add a new subsection (f) to read as follows:

“(a) The Commissioner may revoke any certificate after issuance thereof when the holder has committed a material deception or fraud on his application. Any person committing such material deception or fraud shall be guilty of violation of this section, and upon conviction, shall be fined not more than \$ 1,000.

(b) The Commissioner shall adopt and issue rules and regulations concerning the duties, appointment, and discipline of certified personnel within 90 days after October, 1988.

(c) The Commissioner may revoke or suspend the holder's certificate for immoral conduct, unprofessional conduct, incompetence, or for defiance of or refusal to obey the rules, regulations and laws of the Public School System governing the duties of certified personnel. The Commissioner will review suspension actions on a case by case basis.

(d) Whenever the holder of a certificate has been convicted of any crime involving moral turpitude or a felony showing unfitness to teach, the Commissioner shall revoke or suspend the holder's certificate.

(e) Prior to suspending or revoking any such certificate, the Commissioner shall give the holder 20 days notice of proposed action specifying the reason therefore, and provide such holder an opportunity for a hearing wherein such holder shall have the right to be represented by counsel, cross examine witnesses and produce testimony on the holder's behalf. Within 20 days after the Commissioner's final decision, such holder may appeal to the Commonwealth Superior Court, and the standard for judicial review shall be whether such decision is supported by substantial evidence on the record made before the Commissioner, taken as a whole, and the facts in question shall not be subject to trial de novo.

(f) Certificate holders shall notify the Commissioner in writing within five days of their arrest or conviction for any crime. Such notification shall include information indicating the crime(s) that they were arrested or convicted for and the police agency, court of jurisdiction and relevant report or case number(s)."

Section 9. Amendment. 1 CMC, Div. 2, §2268 is hereby amended by adding a new subsection (x) to read as follows:

“(x) To establish a minimum core curriculum and length of school year standard for non public schools.”

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 12. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED BY:**

/s/ Diego T. Benavente  
**DIEGO T. BENAVENTE**  
**Speaker**  
House of Representatives

/s/ Evelyn C. Fleming  
**EVELYN C. FLEMING**  
House Clerk

Approved this 1<sup>st</sup> day of September, 1998

/s/ Pedro P. Tenorio  
**PEDRO P. TENORIO**  
**Governor**  
Commonwealth of the Northern Mariana Islands