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CH. 9 EDUCATION & TRAINING FACILITIES AND OPPORTUNITIES
FOR THE HANDICAPPED

CHAPTER 9
EDUCATION AND TRAINING FACILITIES AND OPPORTUNITIES
FOR INDIVIDUALS WITH DISABILITIES

SOURCE: This entire Chapter was repealed and reenacted by P.L. 22-119:1; and by P.L. 27-017:1. Amended by P.L. 31-158:2 (Jan. 4, 2012).

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

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§ 9101. Declaration of Public Policy.

It is and *shall* be the duty of the various divisions and schools of the Department of Education to make available a free appropriate public education to all children with disabilities residing on Guam between the ages of three (3) through twenty-one (21), including children with disabilities who have been suspended or expelled. The Department of Education *shall* make available early intervention services for eligible infant toddlers ages birth through two (2). This Section and all other sections *shall* be in conformity with the Individuals with Disabilities Education Act (IDEA), its amendments, implementing regulations, and all other laws and regulations relating to the education of children with disabilities. The exception to Free Appropriate Public Education (FAPE) *shall* be made for students ages eighteen (18) through twenty-one (21) who, in the last educational placement prior to their incarceration to an adult correction facility, (a) were *not* actually identified as being a child with a disability; and (b) did *not* have an Individualized Education Program (IEP) under IDEA. The purpose of this Chapter is to ensure that special education and

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related services are provided to all children with disabilities of public school age, or within the broader age limits provided in this Chapter.

§ 9102. Definitions.

(a) All identified children with disabilities from birth through age twenty-one (21) described in the following paragraphs (b, c, d) are subject to the policies of the Guam Education Board (Board).

(b) The term *children with disabilities* means those children evaluated in accordance with the requirements of IDEA as having an intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disabilities, an orthopedic impairment, autism, traumatic brain injury, and other health impairment, a specific learning disability, deaf-blindness, or a multiple disabilities, and who because of that impairment needs special education and related services. For students ages eighteen (18) to twenty-one (21), the Board *shall* promulgate policies that are aligned with current policies on the education for all students.

(c) The term *infant or toddler with a disability* means an infant or toddler with a disability under three (3) years of age who needs early intervention services because they are experiencing developmental delays or have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. This includes infants or toddlers under three (3) years of age who are at risk of having substantial developmental delays, as measured by appropriate diagnostic instruments and procedures, if early intervention services are *not* provided.

(d) For individuals ages three (3) through five (5), the term *children with disabilities* means those children who are experiencing developmental delays, as defined by the Board and as measured by appropriate diagnostic instruments and procedures, in one (1) or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, and for that reason, these children need special education and related services.

(e) *Department* means the Department of Education.

(f) *Board* means the Guam Education Board.

(g) *FAPE* means Free Appropriate Public Education.

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- (h) *IEP* means Individualized Education Program.
- (i) *IDEA* means Individuals with Disabilities Education Act.
- (j) *Parent* for purpose of IDEA means:
 - (1) a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, (but *not* the local government if the child is a ward of the government);
 - (2) a person acting in the place of a biological or adoptive parent (such as grandparent or stepparent, or other relative with whom the child lives, or a person who is legally responsible for the child's welfare);
 - (3) a surrogate parent who has been appointed in accordance with IDEA;
 - (4) a foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent); or
 - (5) a biological or adoptive parent of a child.

§ 9103. Child Find.

(a) The continuing IDEA Part "B" eligibility documents for Special Education will ensure that all children residing on Guam, including children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located and evaluated, and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services. This also applies to highly mobile children with disabilities (such as migrant and homeless children, and wards of the government) and children suspected of being a child with a disability, as defined in this Act, and in need of special education, even though they are advancing from grade to grade. The policies and procedures for referral, evaluation, eligibility, or placement and the provision of FAPE *shall* be established by the Board through required continuing eligibility documents under Part "B" of IDEA, and its amendments, and the Handbook for the Delivery of Special Education services.

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(b) Referral. Pursuant to IDEA, children suspected of having a disability and who are in need of special education and related services are to be referred for an evaluation.

(c) In any procedure related to the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, the Department of Education *shall* comply with those procedures stated in IDEA, its amendments, and implementing regulations. These include evaluation procedures, the development and implementation of an Individualized Education Program (IEP), determination of placement in the least restrictive environment, and the provision of a free appropriate public education.

(d) For individuals with disabilities from birth through age two (2), an Individualized Family Services Plan will:

(1) be developed by a multidisciplinary team (involved in the provision of early intervention services), including the parents;

(2) be based on a multidisciplinary assessment of the unique strengths and needs of the infant or toddler, and the identification of services appropriate to meet such needs; and

(3) be based on a family-directed assessment of the resources, priorities, and concerns of the family, and the identification of the support and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler with a disability.

§ 9104. Special Education Teachers, Classes, Materials, Opportunities, Day Schools, Hospital Classes and Home Instruction.

The Department of Education *shall*, subject to the limitations specified in this Chapter, ensure appropriate special education teachers, aides, and materials for all children identified in accordance with IDEA as needing special education and related services, so that such children *shall* be provided instruction in the least restrictive environment, and the establishment and maintenance of special classes occurs *only* when the nature and severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services *cannot* be achieved satisfactorily. In addition, the Department of Education *shall* (i) provide for the proper training and development of special education teachers, aides and staff to ensure continued quality special education

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services; (ii) ensure that appropriate educational materials and supplies are furnished; and (iii) ensure that appropriate educational facilities are provided to ensure the provision of a free appropriate public education, as set forth in this Chapter. Such classrooms *shall* be located in an appropriate area within a school campus, given specific needs such as proximity to the special transportation pick-up and drop-off point, proximity to the nurse's office, and the like. Such classrooms, when specifically built for or utilized by children with disabilities, *shall not* be reassigned for any other educational program needs, *unless* this reassignment is to relocate the children with disabilities to another appropriate classroom.

§ 9105. Administration of the Chapter.

This Chapter *shall* be administered by the Superintendent of Education, and the Board *shall* promulgate such rules and regulations as it may deem necessary for the proper administration of this Chapter. The Board *shall* prescribe the standards under which facilities are furnished or services purchased. The Superintendent of Education *shall* be responsible for administering such standards and conditions.

§ 9106. Cooperation with Other Agencies. Gifts and Donations.

The Division of Special Education, and other school agencies, are required to cooperate with other agencies within Guam, both public and private, that are interested in working toward the education or training of children with disabilities. Educational agencies are authorized to accept gifts, donations, or aid from such private agencies.

§ 9107. Advisory Panel.

The Superintendent of Education *shall* establish and maintain an advisory panel on disabilities. Membership and roles of the panel *shall* comply with the requirements outlined in IDEA, its amendments, and implementing regulations. The members of the Advisory Panel *shall* be appointed by the Superintendent.
