

THE TWENTY-SIXTH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

Begun and held at Fagatogo, Tutuila American Samoa  
on Monday, the tenth day of July  
the year two thousand

AN ACT CONFORMING THE AMERICAN SAMOA SPECIAL EDUCATION  
ACT OF 1977 WITH FEDERAL LEGISLATION; AMENDING SECTION  
16.1601, 16.1602, 16.1603, 16.1604, AND 16.1605 A.S.C.A..

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 16.1601 is amended to read:

"16.1601 Short title.

This act shall be known and may be cited as the "American Samoa Special  
Education Act of ~~1977~~ 2000."

Sec 2. 16.1602 is amended to read:

"16.1602 Purpose.

The Legislature of American Samoa recognizing the obligation of the Territory under Article I, 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 ~~appropriate means for educating 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."

Sec 3. 16.1603 is amended to read:

"16.1603 Definitions.

(1) "Children with disabilities" includes those persons three through 21 years of age who have mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, 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 consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, and if the service is considered special education rather than a related service under state standards.

(C) vocational education and travel training, if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability. 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 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 apply 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 instruction, 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)."

Sec 4. 16.1604 is amended to read:

"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 shall establish and make studies, surveys, evaluations, policies, and adopt rules necessary to 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.

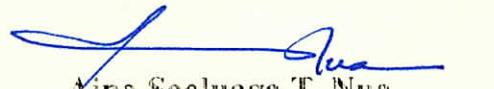
(2) The territorial special education plan shall be submitted as required by federal regulations mandates.

Sec 5. 16.1605 is amended to read:

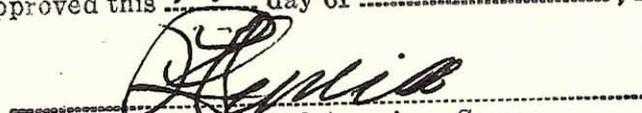
“16.1605 Identification.

The director shall establish, in cooperation with other appropriate governmental agencies policies and procedures to ensure the on-going identification and provision of services for children with disabilities that all children with disabilities in the Territory are identified, located and evaluated in accordance with federal mandates.”

  
Lutu Teinari S. Fuimaono  
PRESIDENT OF THE SENATE

  
Aina Saoluaga T. Nua  
SPEAKER OF THE HOUSE

Hereby Approved this 27<sup>th</sup> day of October, 2000, ~~19~~

  
Governor of American Samoa

NOFOAIGA LUASEFULU-ONO-FONO FAITULAFONO O AMERIKA SAMOA

Fono Tele Lona Fā

Nofolia ma usua i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso sefulu o Iulai  
tausaga lua afe

O SE TULAFONO UA SAUNIA INA IA OGATASI LE TULAFONO O  
A'OA'OGA FA'APITOA O AMERIKA SAMOA O LE 1977 MA  
TULAFONO A LE MALO TELE; SUIA AI MAGA 16.1601, 16.1602,  
16.1603, 16.1604, MA LE 16.1605 T.T.A.S..

IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:

Maga 1. 16.1601 ua suia e faitauina:

"16.1601 Ulutala Pu'upu'u."

O lenei tulafono o le a fa'aigoaina ma e mafai ona ta'ua o le "Tulafono o  
A'oa'oga Fa'apitua o Amerika Samoa o le ~~1977~~ 2000."

Maga 2. 16.1602 ua suia e faitauina:

"16.1602 Fa'amoemoe."

O le Fono Faitulafono o Amerika Samoa ua na silafiaina le tiute tau'ave a  
le Teritori i lalo o le Vaega I, Maga 15 o le Fa'avae o Amerika Samoa o le saunia  
lea "e aunoa ma se tofogi . . . a'oa'oga lautele" ma mataulia le manatu e fa'apea o  
fanau uma e tataua ona maua e i latou avanoa tau a'oa'oga e mafai ai ona ta'ita'ina  
atu i latou i ni olaga fa'amalieina atoatoa ma fa'amanuiaina, ona o lenei tulaga ua  
fa'ailoa atu ai o le fuafuaga o gaoioiga a le Malo o Amerika Samoa ma o le  
fa'amoemoe fo'i lea o lenei tulafono o le fa'atulaga ~~o ni auata-tulafuaga mo~~

a'oa'oga o se a'oa'oga lautele talafeagai e aunoa ma se totogi mo fanau uma e i ai afaina o le tino ma le mafauafau. I se tulaga aupito maualuga talafeagai, tamaiti o lo'o i ai tulaga tumau o le lē atoatoa o le tino ma le mafauafau, e aofia ai fanau o lo'o i ai fa'afitauli o le tino ma le mafauafau, e aofia ai tamaiti-a'oga a le malo po'o a'oga tua po'o isi nofoaga mo le tausiga, o le a'oa'oina fa'atasi ma fanau e lē o i ai ni fa'alētonu tumau o tino ma le mafauafau ma o vasega fa'apitoa, a'oa'oina e 'ese mai ai po'o le 'ave'esea o fanau o lo'o i ai ni gasegase tumau o le tino ma le mafauafau mai le si'omaga o potua'oga masani e tula'i mai pe afai o le tulaga po'o le ogoogo o le fa'alētonu o le tino po'o le mafauafau o lea tulaga o a'oa'oga i vasega masani fa'atasi ai ma le fa'aaogaina o fesoasoani fa'aopopo ma tautua e le mafai ona fa'ataunu'uina lelei. O A'oa'oga Fa'apitoa ma tautua e fa'atatau iai ia tu'uina atu i se tamaititi ua i ai se tulaga fa'alētonu tumau o le tino ma le mafauafau e tusa ai ma le Fuafuaga o A'oa'oga Fa'apitoaina (FAF) po'o se Fuafuaga Tautua o Aiga Fa'apitoaina (FTAFA). O le FAF po'o le FTAFA ia fuafuaina, toeiloloina, ma toe teuteuina fa'ale-tausaga e tusa ai ma poloa'iga uma a le malo tele. O fanau o lo'o i ai fa'alētonu tumau o tino ma le mafauafau na fa'amaloloina le tumau pe sa fa'ate'aina mai a'oga o le a le mafai ona te'ena le aiā e maua ai se a'oa'oga lautele talafeagai e aunoa ma se totogi."

Maga 3. 16.1603 ua suia e faitauina:

16.1603 Fa'auigaina.

(1) "Tamaiti o lo'o i ai fa'alētonu tumau o tino ma mafauafau" e aofia ai tagata o i latou e tolu e o'o i le 21 tausaga o le soifuaga ma o i latou ia e fa'alētonu le mafauafau, fa'alētonu le fa'alogo e aofia ai logona, faigatā ona tautala ma le gagana, fa'alētonu le va'ai e aofia ai le tauaso, fa'afitauli o fa'alogona fa'ale-tagata, fa'alētonu o ivi ma musele o le tino, talitoni i mea e lē moni ma le lē fiafia i tagata (autism), manu'a matuiā o le faiai, isi fa'alētonu o le soifua maloloina, tulaga fa'apitoa e faigatā ai ona a'oa'oina, logona-tauaso po'o ni fa'alētonu e tele e aofia ai ma o i latou ia e ona ia fa'alētonu e mana'omia ai le a'o'aoina fa'apitoa fa'atasi ai ma isi tautua talafeagai.

(2) "Matagaluega" o lona uiga o le matagaluega o a'oga.

(3) "Fa'atonu" o lona uiga o le fa'atonu o a'oga.

(4) "A'oga fa'apitoa" o lona uiga:

(A) a'oa'oga ua fuafuaina fa'apitoa, e aunoa ma se totogi i mātua, e fa'afetaia'ia mana'oga fa'apitoa o se tamaititi o lo'o i ai se fa'alētonu o le tino ma le mafaufau, e aofia ai:

i a'oa'oga o lo'o faia i totonu o potua'oga, i le fale, i falema'i ma nofoaga fa'apitoa mo ia tulaga. ma i isi fa'atulagaga; ma

ii a'oa'oga i le tausiga o le tino.

(E) e aofia ai tautua tulaga fa'aletonu o le gagana tautala po'o isi tautua fa'atatau i ai, ~~afai e aofia i lea tautua a'oa'ega ua fuafuaina fa'apitoa, e aunoa ma se totogi i mātua, e talafeagai ma mana'oga fa'apitoa o se tamaititi o lo'o i ai se fa'alētonu;~~ ma pe afai o le tautua o se a'oa'oga fa'apitoa ua fuafuaina ma le fa'aeteete a le o se tautua e fa'atatau i ai i lalo o aiaiga tausisia a setete.

(I) a'oa'oga fa'amasani fa'apitoa ma malaga mo a'oa'oga pe afai e aofia ai fa'atonuga fa'apitoa fuafuaina, e aunoa ma se totogi i mātua, e talafeagai ma mana'oga fa'apitoa o se tamaititi o lo'o i ai se fa'alētonu. O fa'aupuga i lena fa'auigaina ua fa'amalamalamaina e pei ona ta'ua i lalo:

i "E aunoa ma se totogi" o lona uiga o a'oa'oga fuafuaina fa'apitoa una e tu'uina atu e aunoa ma se totogi, ae le aofia ai ni totogi masani e fa'ae'eina atu i tamaiti e lē afaina tino ma mafaufau po'o o latou mātua o se vaega o porokalama masani tau a'oa'oga.

ii "a'oa'oga i le tausiga o le tino" e pei ona fa'amalamalamaina i lalo:

(a) le atina'eina o le - (1) tino malosi ma gaoioiga o le tino; (2) gaoioiga fa'avae o le tino ma tulaga masani; ma (3) lelei o le a'au, siva, ma ta'aloga ta'ito'a tasi po'o vaega ma isi fa'agatama (e aofia ai ta'aloga i le va o tama ma teine ma ta'aloga e aoga mo le olaga atoa); ma

(e) a'oa'oga fa'apitoa mo le tausiga o le tino. a'oga mo le tausiga o le tino e fa'ata'ita'i mai isi tulaga, a'oga mo gaoioiga o le tino, ma le atina'eina o fa'agaioioiga o le tino.

iii "Fa'atonuga fuafuaina fa'apitoa" o lona uiga o le taliaina, ina ua iloa e talafeagai mo mana'oga o se tamaititi ua agava'a, tulaga, metotia po'o le tu'uina atu o fa'atonuga e fetauti ma mana'oga fa'apitoa o le tamaititi e mafua mai le tulaga fa'alētonu o le tamaititi ma ia mauina ai le maua o le avanoa o le tamaititi i tulaga uma tau a'oa'oga ina ia mafai ai e ia ona fa'atinoina tulaga mana'omia i totonu o le Teritori e fa'atatau i tamaiti uma.

iv. "Malaga mo le a'oa'oina" o lona uiga o le tu'uina atu o fa'atonuga, e talafeagai, mo tamaiti ua mauina le faigatā o tulaga mo le a'oa'oina, ma so'o se isi lava tamaititi e i ai fa'alētonu o le tino ma le mafaufau e mana'omia lea a'oa'oga, ina ia mafai ai e i latou ona maua le malamalama o le si'omaga o lo'o latou nonofo ai, ma ia a'oa'oina ai fo'i i latou i le tomai e tatau ai ina ia mafai ona si'itia atu i lea nofoaga ma lea nofoaga i totonu lava o lenā si'omaga (e.g., i totonu o le a'oga, i le fale, i le galuega, ma i le atunu'u).

v. "A'oa'oga tau matātā 'ese'ese" o lona uiga o porokalama fa'atulagaina o a'oa'oga e talafeagai toru i le saunia o tagata ta'ito'a tasi mo galuega e maua ai tofogi pe lē maua ai fo'i se tofogi, pe mo sauniga fa'aopoopo mo se galuega tumau e mana'omia isi tulaga e 'ese mai lo'o tikeri baccalaureate po'o isi tikeri e sili atu mai iunevesite.

(5) "Tautua e fa'atatau ai" o lona uiga o tautua e aofia i totonu o "tautua e fa'atatau ai" e pei ona fa'augaina e poloa'iga a le malo tele ma tulafono ua taualoaina i le 20 U.S.C. 1401 (22)."

Maga 4. 16.1604 ua suia e faitauina:

"16.1604 Vaega o A'oa'oga Fa'apitoa--Pulega.

(a) Ua fa'atulagaina i totonu o le matagaluega se vaega o a'oa'oga fa'apitoa e fa'auluulu i se fa'atonu o a'oga fa'apitoa, ua agava'a ona o ana a'oa'oga, fa'atonuga, ma le tomai e va'aia ai, ma tu'uina atu fa'atonuga mo, porokalama a Amerika Samoa e fa'atatau i le a'oa'oina o fanau ua fa'alētonu tino ma mafaufau.

(e) O le fa'atonu o le a fa'atulagaina ma faia su'esu'ega, auiliiliga, fuafuaga, fa'atonuga, ma taliaina poloa'iga e fa'atumauina ai lenei porokalama ia fa'asoasoina le pulega mo le va'aia atoa o porokalama tau a'oa'oga uma o lo'o tautuaina ai tamaiti e afaina tino ma mafaufau i totonu o ofisa a le malo i le Fa'atonu o le Vaega o A'oa'oga Fa'apitoa. O le va'ava'aia, iloiloaina o porokalama, ma le fa'agaioiga o porokalama ina ia ogatasi ma aiaiga a le Matagaluega, o le a avea lea ma matafaioi a lenei Vaega.

(i) O le fa'atonu e tatau ona auina atu i le Fono Faitulafono ma i le ofisa o le Kovana i le lē tuai iā 10 Ianuari o tausaga ta'itasi, se ripoti fa'ale-tausaga ma se fuafuaga o lo'o i ai nei mo a'oa'oga fa'apitoa a le teritori.

(1) O le ripoti fa'ale-tausaga ia aofia ai, ae lē fa'atapula'aina i le: le faitau aofa'i o tamaiti a'oga uma o lo'o i ai fa'alētonu tumau o tino ma mafaufau; o latou nofoaga o aumau ai; porokalama ma tautua o lo'o tu'uina atu mo i latou; ma, le auala o lo'o fa'atupeina ai.

(2) O le fuafuaga fa'ale-teritori mo a'oa'oga fa'apitoa ia auina atu pe a mana'omia e tusa ai ma poloa'iga tulafono a le malo tele."

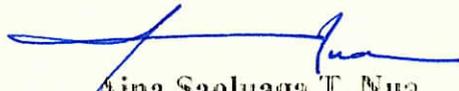
Maga 5. 16.1605 ua suia e faitauina.

“16.1605 Fa’ailoaina.

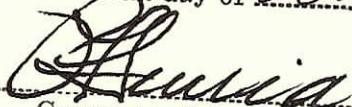
O le fa’atonu e na te fa’atulagaina, i le galulue fa’atasi ma ofisa a le malo e talafeagai ai poloa’iga ma aiaiga ina ia mautinoa ai le fa’ailoaina tuma-pea ma le tu’uina atu o tautua mo tamaiti ua i ai fa’alētonu o tamaiti uma o lo’o i ai fa’alētonu o tino ma mafaufau i totonu o le Teritori ua fa’ailoaina, maua ma auiliiliina e tusa ai ma tulafono a le malo tele.”



Lutu Tenari S. Fuimaono  
PERESETENE, MAOTA MAUALUGA



Aina Saoluaga T. Nua  
FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 27<sup>th</sup> day of October, 2000  
  
Governor of American Samoa