

CHAPTER 2.

COLLEGE OF THE MARSHALL ISLANDS

ARRANGEMENT OF SECTIONS

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An Act to establish the College of the Marshall Islands and provide for its governance; establish the College of the Marshall Islands Fund; provide transition for all rights and obligations existing under current law; and repealing law. [The College of the Marshall Islands Act 1990, previously codified as 14 MIRC Chapter 2, was repealed by this Act]

Commencement:	April 9, 1992
Source:	P.L. 1992-13
	P.L. 1993-55
	P.L. 1999-92
	P.L. 2003-88
	P.L. 2005-25

§201. Short Title.
 This Chapter may be cited as the College of the Marshall Islands Act of 1992. [P.L. 1992-13, §1.]

§202. Legislative intent.
 It is the intent of the Nitijela in this Chapter to establish a single entity post-secondary education agency to serve the needs of the Republic. [P.L. 1992-13, §2.]

§203. Definition of terms.
 In this Chapter, unless the context otherwise requires:

- (1) “Adult basic education” means secondary level educational programs and courses offered to out-of-school adults;
- (2) “Board” or “Board of Regents” means the College of the Marshall Islands Board of Regents as established by this Chapter;
- (3) “COM” means the College of Micronesia, as established by Congress of Micronesia Public Law 7-29 (41 Trust Territory Code Sections 151 to 168) on October 1, 1977 and by Article I of the Treaty;
- (4) “Continuing education” means in-service professional development and non-credit programs and courses offered, at the post-secondary level;
- (5) “General education” means an education program that introduces the content and methodology of the major areas of knowledge, including the humanities, the fine arts, the natural sciences, and the social sciences, and helps students to develop the intellectual skills and social attitudes that will make them effective learners and citizens;
- (6) “Government officials” means any person or persons in positions of responsibility and authority employed by the government of the Republic;
- (7) “Land Grant” means that program established by 7 United States Code Section 301 et seq.;
- (8) “Minister” means the Minister of Education of the Republic of the Marshall Islands, unless otherwise indicated;
- (9) “Post-secondary education” means any educational offerings beyond the secondary level;
- (10) “Republic” means the Republic of the Marshall Islands;
- (11) “The College” means the College of the Marshall Islands as established pursuant to Section 204 of this Chapter;
- (12) “Treaty” means the “Treaty among the Governments of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau regarding the College of Micronesia” executed in Kolonia, Pohnpei the Federated States of Micronesia, on September 1, 1987, as amended;
- (13) “Vocational education” means the provision of skills and attitudes which makes an individual employable and productively useful in the labor market. [P.L. 1992-13, §3.]

§204. Establishment; Charter.

There is hereby established the College of the Marshall Islands (“the College”). This Chapter shall serve as the Charter for the College. [P.L. 1992-13, §4.]

§205. Incorporation of the College.

- (1) The College:
- (a) is a public, nonprofit corporation;
 - (b) has perpetual succession;
 - (c) shall have a seal;
 - (d) may enter into contracts;
 - (e) may acquire, hold, charge and dispose of property;
 - (f) may sue and be sued in its corporate name; and
 - (g) for the purposes of its functions, has all the powers, functions, duties and responsibilities of a corporation.

(2) The provisions of the Associations Act, P.L. 1990-91, do not apply to the College.

(3) The President of the College and the members of the Board who are citizens of the Republic may accept service of process on behalf of the College. [P.L. 1992-13, §5.]

§206. Purposes.

The Purposes of the College of the Marshall Islands shall to:

(1) provide for such services as all post-secondary instruction, non-formal teacher training, adult basic education, adult vocational education, college preparatory instruction and assistance, administration of post-secondary financial assistance programs, monitoring of student performance in colleges overseas, and similar closely related functions;

(2) maintain accreditation by the Western Association of Schools and Colleges;

(3) develop and offer certificate and degree programs in fields to include, but not limited to, Teacher Education, Special Education, Nursing, Business, Liberal Arts, and other occupational and technical career fields;

(4) coordinate training and education programs and services currently being provided to adults and the out-of-school youth of the Republic by various public and private agencies;

(5) develop and conduct outreach programs;

(6) coordinate with the Ministry of Education for the effective use of resources including facilities, equipment, personnel and educational support services including, but not limited to, career and academic counseling, library services, educational delivery systems audio-visual and other study resources;

(7) conduct and support research relevant to the needs of the Republic to the degree funding is available particularly as relevant to assessing ongoing training and education needs;

(8) administer and provide services related to post-secondary student financial assistance provided by governmental and other sources;

(9) serve as a testing center;

(10) serve as the coordinating agency for all higher education activities conducted within the Republic by other agencies and organizations; and

(11) provide other College related activities as determined by the Board and as financially feasible. [P.L. 1992-13, §6.]

§207. Organizing principles.

The College, in accordance with recognized professional standards, shall have a representative governance structure to insure institutional autonomy, academic freedom, principles of equity, and insulation from political interference in order to serve the public interest. [P.L. 1992-13, §7.]

§208. Governing body.

(1) The College of the Marshall Islands shall be governed by a body to be known as the Board of Regents. The Board of Regents is hereby established and defined as follows:

(a) *Composition:* The Board shall consist of eleven (11) members, appointed by Cabinet as follows:

(i) not more than five (5) members of the Board shall be officials of the government;

(ii) at least two (2) members shall be representatives of business and

industry;

(iii) at least two (2) members shall represent the general public;

(iv) one (1) member representing private secondary schools;

(v) one (1) student;

(vi) at least one (1) member of the Board shall be a resident of Kwajalein Atoll, provided that such member shall not be an employee of the Public Service.

(b) *Term:* The terms of office for the initial Board shall be as follows:

(i) two (2) members shall serve for three (3) years; two (2) members shall serve for four (4) years; and two (2) members shall serve for five (5) years. Subsequent members shall serve three (3) year terms with no member serving more than two (2) successive terms. As positions on the Board become vacant they shall be filled as set forth in Section 207 of this Chapter.

(c) *Appointment of Chairperson:* Members of the Board shall annually appoint a Chairperson and a Vice Chairperson from within the membership of the Board. The Chairperson shall preside at meetings of the Board. The Vice Chairperson shall serve as the presiding officer of the Board in the absence of the Chairperson.

(d) The Board shall also appoint a Secretary-Treasurer who shall serve as the presiding officer of the Board in the absence of both the Chairperson and Vice Chairperson. In the absence of all three, the Board may appoint a temporary officer to preside. Any vacancies in the offices of the Chairperson, vice Chairperson, or Secretary-Treasurer shall be filled by the Board for the unexpired term.

(2) The concurrence of six (6) members of the Board at a duly called and noticed regular or special meeting of the Board shall be necessary to the validity of its acts.

(3) Meetings of the Board shall be open to the public provided that the Board is not discussing personnel matters, litigation or impending litigation with its attorney.

(4) Members of the Board who are not government employees shall receive compensation for attending Board meetings.

(5) Costs incurred in the conduct of College business by members serving on the Board shall be reimbursed by the College.

(6) The Board shall meet not less than four times each fiscal year and at such other times as the Board shall decide. The Chairperson or a majority of the Board members may call a special meeting of the Board. Written notice shall be provided to Board members at least seven (7) days in advance of any regular or special meeting.

(7) The Board shall establish bylaws for its operation.

(8) In cases of special service or contribution to the College, the Cabinet may appoint, honorary members to the Board.

(9) Members of the Nitijela, and the Secretary for Education, are not eligible for appointment to the Board.

(10) To allow for a smooth transition, members of the Board whose terms have expired, or whose appointments have been disqualified under subsection (9) herein, shall continue to serve on the Board until a successor or successors have been appointed by Cabinet.

(11) The Board may, whenever it deems necessary, consult with the Secretary of Education on any matter affecting the College. [P.L. 1992-13, §8: amended by P.L. 1993-55, §2.][P.L. 2003-88 replaced faculty member with representative of private secondary schools-in subsection (1)(a) above][entire section amended by P.L. 2005-25]

§209. Responsibilities of the Board.

The Board of Regents shall have the responsibility to:

- (1) clarify the mission of the College;
- (2) insure the institutional autonomy of the College;
- (3) communicate the mission and goals of the College to the community;
- (4) convey the needs of society to the College;
- (5) insure adequate financial resources;
- (6) insure strong financial management;
- (7) adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by this Chapter;
- (8) appoint, support, and assess the performance of the Chief Executive Officer of the College;
- (9) insure the well-being of faculty, student and staff through the approval of appropriate policies and procedures;
- (10) serve as the final authority in any dispute involving the interpretation or application of the College's rules, regulations, policies, procedures, or standards among or between the faculty, students, and staff;
- (11) fix the rates to be charged students of the College for tuition, room and board, and other necessary fees and charges, and grant tuition waivers as the Board may deem appropriate;
- (12) confer degrees and grant diplomas and certificates;
- (13) approve such policies and standards as it may deem necessary for the effective operation of the College;
- (14) approve programs of instruction and research;
- (15) incorporate into the College such technical and research establishments as the Board deems necessary or appropriate to ensure a quality program of instruction and research which is relevant to the national development priorities of the Republic, and to acquire all property whether real, personal, or mixed, tangible or intangible, of any such establishment as may be transferred to the College;
- (16) annually review and approve long range plans for the development of the College;
- (17) execute in accordance with its bylaws, all instruments necessary or appropriate in the exercise of its powers and to that end adopt, alter, and use a common seal by which all acts of the Board shall be authenticated;
- (18) delegate any of its powers and duties which are properly delegable to an officer of the Board or an official or employee of the College where appropriate;
- (19) take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the powers and duties granted to or imposed upon it by this Chapter; and
- (20) assess its own performance. [P.L. 1992-13, §9.]

§210. Chief Executive Officer of the College.

(1) The Chief Executive Officer of the College shall hold the title of President of the College and shall be appointed by the Board. The President of the College shall have full charge and control of the administration and business affairs of the College.

(2) The powers of the President of the College are subject to limitations by the Board and include the following:

- (a) to see that rules and regulations of the College are established and implemented;
- (b) to attend all meetings of the Board and report on the affairs of the College;
- (c) to keep the Board advised as to the needs of the College;
- (d) to devote her or his entire time to the business of the College, to select and appoint the employees of the College except as otherwise provided by this Chapter and to plan, organize, coordinate and control the services of such employees in the exercise of the power of the College under the general direction of the Board;
- (e) to cause to be prepared, subject to the approval of the Board, the annual report required in Section 220(1); and
- (f) to perform such other additional duties as the Board may require. [P.L. 1992-13, §10.]

§211. Employees of the College.

(1) Article VII of the Constitution (Public Service) shall not apply to or in relation to the College.

(2) In accordance with Subsection (1) of this Section a personnel system for the College shall be adopted which provides that employees of the College are not employees of the government or its political subdivisions.

(3) Except for officials of the College serving at the pleasure of the Board, every official, faculty member, and other employee of the College shall be entitled to hold his or her position during good behavior, subject to suspension, demotion, layoff, or dismissal only as provided in the personnel regulations of the College; provided that the tenure of a contract employee is the term stated in his or her contract. No employee of the College may be suspended, demoted, laid off, dismissed, or otherwise discriminated against because of sex, marital status, race, religious or political preference, place of origin or ancestry.

(4) In appointing and promoting officials and other employees of the College, criteria and procedures shall be utilized which are fair, objective, and practical and result in the impartial selection of the ablest person for the particular job: provided that preference shall be given to qualified citizens of the Republic;

(5) Individuals who are employees of the College upon entry into force of the Chapter may continue to serve in their current positions. [P.L. 1992-13, §11.]

§212. The College of the Marshall Islands Fund.

The College of the Marshall Islands Fund (“the Fund” or “the CMI Fund”) is hereby established. For purposes of Article VIII of the Constitution, the Fund is a fund other than the Marshall Islands General Fund. [P.L. 1992-13, §12.]

§213. Payments into the Fund.

There shall be paid into the Fund

(1) any money appropriated by the Nitijela for the purposes of the Fund, provided that monies appropriated for the college shall remain appropriated to the College until expended and may be carried over from one fiscal year to the next fiscal year;

(2) all tuition, fees, fines, and other sums paid to and collected by the College;

(3) all sums, gifts, grants, loans, or investments, from any source which may, from time to time, be available to College; and

(4) private gifts, donations, endowments, grants and other monies from public or private sources for restricted or unrestricted purposes. [P.L. 1992-13, §13.]

§214. Payments Out of the Fund.

(1) Payments shall be made out of the Fund for or to the following purposes:

(a) with respect to monies appropriated by the Nitijela, for the purposes for which the monies were appropriated;

(b) with respect to tuition, fees, fines, and other sums received, for any lawful purpose within the mandate of this law, provided, however, that sums received for a specific purpose may and shall only be used for said purpose; and

(c) with respect to monies paid into the Fund under Subsection 2 13(4), expenditures may be made from the Fund only for the purposes of this Chapter and in accordance with such conditions as may be attached to the gift, donation, endowment or grant, or other monies from public or private sources; provided that such expenditures shall be made in accordance with a budget approved by the Board.

(2) No money may be withdrawn from the Fund except upon the authority of the Board which shall satisfy itself that the withdrawal is made in accordance with this law. [P.L. 1992-13, §14.]

§215. Bank Accounts.

(1) The Board shall open and maintain as few bank accounts as necessary for the efficient implementation and administration of this Chapter.

(2) Except as provided for in Subsection (3), any money (other than petty cash) withdrawn from the Fund and not immediately required shall be kept in an account opened under subsection (1).

(3) Money not immediately required may be invested in any manner in which money in the Marshall Islands General Fund may be invested. [P.L. 1992-13, §15.]

§216. Budget.

(1) An annual budget shall be submitted by the Board to the Cabinet for the expenditures of the College. The Cabinet shall make recommendations to the Nitijela for sufficient annual appropriations to the College for operating and capital expenditures. The monies shall be deposited quarterly in the CMI Fund according to an allotment schedule submitted by the College and approved by the Minister of Finance. The transfer of funds shall occur in the form of cash, a government check, electronic transfer or other appropriate method.

(2) The budget shall:

(a) contain budget projections for each of the two subsequent fiscal years;

(b) include all expenditures and projected revenues from all sources;

(c) include an operations budget for each major component of the College;

(d) identify capital improvement needs of the College;

(e) include analysis of major trends over the three years budgeted and projected regarding funding sources, spending and program emphasis, proposed program expansions and contractions, tuition, room and board, other fees and charges, and staffing levels.

(3) In addition to the annual budget the College may make application for additional funds. [P.L. 1992-13, §16.]

§217. Limitations on authorized expenditures.

(1) Unless otherwise specifically authorized by the Board, no officer or employee of the College shall make or otherwise authorize an expenditure from, or create or authorize an obligation of, funds of the College:

(a) after the period of time available for obligation and expenditure as provided by the Board;

(b) in excess of the sum approved by the Board;

(c) in advance of the availability of funds; or

(d) for purposes other than those for which an expenditure or obligation has been authorized by the Board.

(2) Any person who shall knowingly and willfully violate this section shall be personally liable for the resulting deficiency and shall be subject to criminal prosecution.

(3) The Board may require that any officer of the Board or any official or employee of the College furnish a bond of a kind and in the amount required by the Board. [P.L. 1992-13, §17.]

§218. Financial management.

The Board may:

(1) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms and conditions as it may deem appropriate, including contracts to perform organized research, training, and demonstrations on a reimbursable basis, with any foreign government, or any agency, instrumentality or political subdivision thereof;

(2) receive, manage, and invest monies, and receive and manage other property, real, personal, or mixed, tangible or intangible, or services which may be appropriated, or in any manner received from any source for the purposes of the College, its improvement or adornment, or for the aid to the students or faculty of the College, and in general to act as trustee on behalf of the College for such purposes or objects;

(3) approve rates of per diem and policies relating thereto for officials, faculty members, and other employees of the College; and

(4) approve such rents, fees, and charges, as the Board deems appropriate, for the private use of facilities of the College or services provided by the College provided that the College shall not charge the government for use of its physical facilities to the extent available. [P.L. 1992-13, §18.]

§219. Accounting and financial reporting.

The Board shall be responsible for ensuring that the College develops, implements, and maintains, in accordance with generally accepted accounting principles, accounting and record-keeping, financial reporting, and financial management systems which provide for full disclosure of the results of financial operations, adequate financial information needed in the management of operations, and the formulation and execution of the annual budget adopted by the Board. Such systems shall ensure effective control over income, expenditures, funds, property, and other assets of the College and be designed to prevent the misappropriation of funds. Records relating to the financial transactions of the College shall be maintained for at least three years. [P.L. 1992-13, §19.]

§220. Reports and Auditing Procedures.

(1) By January 1st each year, or as soon as practicable thereafter, a report shall be made to the President of the Republic and to the Nitijela. The annual report shall contain information concerning the activities, programs, progress, condition, and financial status of the College in the fiscal year most recently completed. The annual report shall provide comprehensive financial information which accounts for the use of all funds available to the College from the government or otherwise and which shall be prepared in accordance with generally accepted accounting principles. The annual report shall also describe implementation of the Colleges long-range plan and include information on student enrollment, costs per component and per student, and the status of students who graduated from or terminated studies at the College.

(2) The Board shall select an independent auditor who shall inspect and audit all accounts of the College at least annually and report thereon to the Board and to the government of the Republic. For the purposes of this paragraph, audit means financial, compliance, program results, and economy and efficiency audits, including determinations as to whether the College has met the requirements set forth in this Chapter and determinations as to the propriety of the financial transactions of the College. The Board of Regents and officials, faculty, and other employees of the College shall cooperate fully with the audit officials to enable them to fully discharge their responsibilities, and provide such audit officials access, without cost and during normal working hours, to all personnel records, documents, working papers, automated data, files and other information such audit officials deem relevant to their work. [P.L. 1992-13, §20.]

§221. Borrowing.

The College may borrow money provided that no debt of the College shall be secured by real property or improvements granted or otherwise made available to the College by the government or any political subdivision thereof, and provided that, unless expressly provided by law or agreement, no debt or obligation of the College shall be a debt or obligation of the government or its political subdivisions, nor shall the government or its political subdivisions be responsible for any such debts or obligations. [P.L. 1992-13, §21.]

§222. Property.

The College may acquire in any lawful manner any property, real, personal or mixed, tangible or intangible, or any interest therein for purposes of the College; hold, maintain, use, and operate the same for purposes of the College; and sell, lease, transfer, exchange, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary by the Board to carry out the purposes of the College; provided, however, that any real property and improvements thereon granted to or otherwise made available to the College shall revert to the grantor upon the cessation of the grant of the its active use by the College. [P.L. 1992-13, §22.]

§223. Land Grant.

(1) The College shall serve as the exclusive site or campus within the Republic for Land Grant programs for COM, share in any endowments, and provide training, research, and related extension services provided through Land Grant programs.

(2) The College shall be the recipient of any program and be eligible for any benefit available through Section 105(1) of United States Public Law 99-239, the Compact of Free Association Act

1985. [P.L. 1992-13, §23.]

§224. Taxation.

(1) The College and its assets, revenues, income, and property shall be exempt from all direct taxes imposed by the government and its political subdivisions, including any taxes, customs duties, or import and export taxes, fees, or charges imposed by the government or its political subdivisions on the importation, acquisition, or exploitation of equipment and supplies required by the College for official functions. The tax exemptions provided for in this paragraph shall not be for the benefit of any officer, official, faculty member, employee, student, or other individual associated with the College.

(2) The College shall be liable for employer's contributions to any social security, health fund, or pension system of the government in the manner provided by law.

(3) For purposes of all types of registration and license fees, sales taxes, and other charges and fees included in prices of equipment, goods, and services, the College shall be treated as if it were an agency or instrumentality of the government. [P.L. 1992-13, §24.]

§225. Applicability of laws.

(1) Except as noted in this Chapter the laws and regulations of the Republic and its political subdivisions shall apply to the College.

(2) Alien labor laws of the government of the Republic shall not apply to officials, faculty members or other employees of the College with respect to their College employment but shall apply to all such officials, faculty members and other employees with respect to any and all outside employment. [P.L. 1992-13, §25.]

§226. Liability.

(1) In as much as the College is chartered as a nonprofit corporation by the Nitijela, it is hereby provided that the limits of liability applicable to the Republic shall apply to any suit brought against the College in the courts of the Republic.

(2) The College shall endeavor to maintain adequate insurance coverage to protect itself against liability for bodily injury or death of any person and against liability for loss of or damages to property as the result of the operations or maintenance of real property, facilities and improvements, and vehicles and other equipment owned or used by the College. [P.L. 1992-13, §26.]

§227. Liability and Expenses.

(1) No suit or prosecution shall lie:

(a) against CMI for any act which in good faith is done or purported to be done by CMI under this Chapter; or

(b) against any member, officer, servant, employee, or agent of CMI for any act which in good faith or purported to be done by him under this Chapter or on the direction of CMI.

(2) Any expenses incurred in prosecuting or defending a suit or prosecution that falls under the terms of this Chapter shall be a charge upon the CMI Fund. [P.L. 1992-13, §27.]

§228. Transition, assumption of rights.

The College shall be the successor of all right, title, or interest that may currently be held by the College of the Marshall Islands as it exists under the Treaty and the entity created under Marshall Islands P.L. 1990-79, the College of the Marshall Islands Act 1990. [P.L. 1992-13, §28.]

§229. Repealer.

Marshall Islands P.L. 1990-79, the College of the Marshall Islands Act 1990, is hereby repealed effective upon the date which this Chapter comes into force and effect. [P.L. 1992-13, §29.]

§230. Effective Date.

This Chapter shall become effective October 1, 1992. [P.L. 1992-13, §30.]

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