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§ 1801. Definitions

(a) For purposes of this chapter, the term—

(1) “Indian” means a person who is a mem-
ber of an Indian tribe;

(2) “Indian tribe” means any Indian tribe,
band, nation, or other organized group or com-
munity, including any Alaskan Native village
or regional or village corporation as defined in
or established pursuant to the Alaskan Native
Claims Settlement Act [43 U.S.C. 1601 et seq.],
which is recognized as eligible for the special
programs and services provided by the United
States to Indians because of their status as In-
dians;

(3) “Secretary”, unless otherwise des-
ignated, means the Secretary of the Interior;

(4) “tribally controlled college or univer-
sity” means an institution of higher education
which is formally controlled, or has been for-
mally sanctioned, or chartered, by the govern-
ing body of an Indian tribe or tribes, except
that no more than one such institution shall
be recognized with respect to any such tribe;

(5) “institution of higher education” means
an institution of higher education as defined
by section 1001¹ of title 20, except that clause
(2) of such section shall not be applicable and
the reference to Secretary in clause (5)(A)² of
such section shall be deemed to refer to the
Secretary of the Interior;

(6) “national Indian organization” means an
organization which the Secretary finds is na-
tionally based, represents a substantial Indian
constituency, and has expertise in the fields of
tribally controlled colleges and universities
and Indian higher education;

(7) “Indian student” means a student who
is—

(A) a member of an Indian tribe; or

(B) a biological child of a member of an In-
dian tribe, living or deceased;

(8) “Indian student count” means a number
equal to the total number of Indian students
enrolled in each tribally controlled college or
university, determined in a manner consistent
with subsection (b) of this section on the basis
of the quotient of the sum of the credit hours
of all Indian students so enrolled, divided by
twelve; and

(9) “satisfactory progress toward a degree or
certificate” has the meaning given to such
term by the institution at which the student
is enrolled.

(b) The following conditions shall apply for
the purpose of determining the Indian student
count pursuant to subsection (a)(8) of this sec-
tion:

(1) Such number shall be calculated on the
basis of the registrations of Indian students as
in effect at the conclusion of the third week of
each academic term.

(2) Credits earned in classes offered during a
summer term shall be counted toward the
computation of the Indian student count in
the succeeding fall term.

(3) Credits earned by any student who has
not obtained a high school degree or its equiv-
alent shall be counted toward the computation
of the Indian student count if the institution
at which the student is in attendance has es-
tablished criteria for the admission of such
student on the basis of the student’s ability to
benefit from the education or training offered.
The institution shall be presumed to have es-
tablished such criteria if the admission proce-
dures for such studies include counseling or
testing that measures the student’s aptitude
to successfully complete the course in which
the student has enrolled. No credits earned by
such student for purposes of obtaining a high
school degree or its equivalent shall be count-
ed toward the computation of the Indian stu-
dent count.

(4) Indian students earning credits in any
continuing education program of a tribally
controlled college or university shall be in-
cluded in determining the sum of all credit
hours.

(5) Eligible credits earned in a continuing
education program—

(A) shall be determined as one credit for
every ten contact hours in the case of an in-
stitution on a quarter system, or 15 contact
hours in the case of an institution on a se-
mester system, of participation in an orga-
nized continuing education experience under
responsible sponsorship, capable direction,
and qualified instruction, as described in the
criteria established by the International As-
sociation for Continuing Education and
Training; and

(B) shall be limited to ten percent of the
Indian student count of a tribally controlled
college or university.

(Pub. L. 95-471, §2, formerly §1, Oct. 17, 1978, 92
Stat. 1325; renumbered §2 and amended Pub. L.
98-192, §1, Dec. 1, 1983, 97 Stat. 1335; Pub. L.
99-428, §3, Sept. 30, 1986, 100 Stat. 982; Pub. L.
105-244, title I, §102(a)(8)(B), title IX, §901(b)(5),
(9), Oct. 7, 1998, 112 Stat. 1619, 1828; Pub. L.
110-315, title IX, §941(a)-(c), Aug. 14, 2008, 122
Stat. 3460, 3461.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the
original “this Act”, meaning Pub. L. 95-471, Oct. 17,
1978, 92 Stat. 1325, known as the Tribally Controlled
Colleges and Universities Assistance Act of 1978, which
enacted this chapter and section 640c-1 of this title,
amended section 640c of this title, and enacted provi-

¹ So in original. Probably should be section “1001(a)”.

² So in original. Probably should be “(5)”.

sions set out as notes under sections 640a, 640c-1, and 1801 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Alaskan Native Claims Settlement Act, referred to in subsec. (a)(2), probably means the Alaska Native Claims Settlement Act, Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

2008—Subsec. (a)(6). Pub. L. 110-315, §941(a), substituted “in the fields of tribally controlled colleges and universities and Indian higher education” for “in the field of Indian education”.

Subsec. (a)(7) to (9). Pub. L. 110-315, §941(b), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively.

Subsec. (b). Pub. L. 110-315, §941(c)(1), substituted “subsection (a)(8)” for “paragraph (7) of subsection (a)” in introductory provisions.

Subsec. (b)(5). Pub. L. 110-315, §941(c)(2), added par. (5) and struck out former par. (5) which read as follows: “Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled college or university’s system for providing credit for participation in such program.”

Subsec. (b)(6). Pub. L. 110-315, §941(c)(3), struck out par. (6) which read as follows: “No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate shall be taken into account.”

1998—Subsec. (a)(4). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college”.

Subsec. (a)(5). Pub. L. 105-244, §102(a)(8)(B), substituted “section 1001” for “section 1141(a)”.

Subsec. (a)(7). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college”.

Subsec. (b)(4). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college”.

Subsec. (b)(5). Pub. L. 105-244, §901(b)(9), substituted “college or university’s” for “community college’s”.

1986—Subsec. (a)(8). Pub. L. 99-428, §3(a), added par. (8).

Subsec. (b)(3) to (6). Pub. L. 99-428, §3(b), added par. (3), redesignated former pars. (3) to (5) as (4) to (6), respectively, and in par. (6) struck out “, in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance,” after “certificate”.

1983—Subsec. (a). Pub. L. 98-192, §1(1), designated existing provisions as subsec. (a) and inserted introductory provision preceding par. (1).

Subsec. (a)(1). Pub. L. 98-192, §1(2), struck out “and is eligible to receive services from the Secretary of the Interior” after “Indian tribe”.

Subsec. (a)(5). Pub. L. 98-192, §1(3), inserted “and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior”.

Subsec. (a)(7). Pub. L. 98-192, §1(4), substituted provision defining “Indian student count” to mean a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined as consistent with subsec. (b) of this section on the basis of the quotient of the sum of the credit hours of all Indians so enrolled, divided by twelve for provision defining “full-time equivalent Indian student” to mean the number of Indians enrolled full-time and the full-time equivalent of the number of Indians enrolled part-time, determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

Subsec. (b). Pub. L. 98-192, §1(4), added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99-428 provided that: “This Act [amending this section and sections 640c-1, 1808 to 1810, 1812, 1813, and 1836 of this title] may be cited as the ‘Tribally Controlled Community College Assistance Amendments of 1986.’”

SHORT TITLE

Pub. L. 95-471, §1, Oct. 17, 1978, 92 Stat. 1325, as amended by Pub. L. 105-244, title IX, §901(b)(1), Oct. 7, 1998, 112 Stat. 1827; Pub. L. 110-315, title IX, §941(k)(1), Aug. 14, 2008, 122 Stat. 3465, provided that: “This Act [enacting this chapter and section 640c-1 of this title, amending section 640c of this title, and enacting provisions set out as notes under sections 640a and 640c-1 of this title] may be cited as the ‘Tribally Controlled Colleges and Universities Assistance Act of 1978.’”

Pub. L. 95-471, title IV, §401, as added by Pub. L. 101-392, title III, §312, Sept. 25, 1990, 104 Stat. 804, provided that: “This title [enacting subchapter III of this chapter] may be cited as the ‘Tribal Economic Development and Technology Related Education Assistance Act of 1990.’”

ADDITIONAL CONFORMING AMENDMENTS

Pub. L. 105-244, title IX, §901(c), Oct. 7, 1998, 112 Stat. 1828, provided that:

“(1) RECOMMENDED LEGISLATION.—The Secretary of Education shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by subsection (b) [see Tables for classification].

“(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title [see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of Title 20, Education], the Secretary of Education shall submit the recommended legislation referred to under paragraph (1).”

REFERENCES TO TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978

Pub. L. 105-244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828, provided that: “Any reference to a section or other provision of the Tribally Controlled Community College Assistance Act of 1978 shall be deemed to be a reference to the Tribally Controlled College or University Assistance Act of 1978 [now Tribally Controlled Colleges and Universities Assistance Act of 1978].”

EXECUTIVE ORDER NO. 13021

Ex. Ord. No. 13021, Oct. 19, 1996, 61 F.R. 54929, as amended by Ex. Ord. No. 13104, Oct. 19, 1998, 63 F.R. 56535, which established the President’s Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities in the Department of Education and required a Five-Year Federal Plan regarding tribal colleges and universities, was revoked by Ex. Ord. No. 13270, §10, July 3, 2002, 67 F.R. 45291, formerly set out below.

EXECUTIVE ORDER NO. 13270

Ex. Ord. No. 13270, July 3, 2002, 67 F.R. 45288, which established the President’s Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities and required agencies to develop and submit plans for making certain improvements in tribal colleges and universities, was revoked by Ex. Ord. No. 13592, §5(c), Dec. 2, 2011, 76 F.R. 76607, set out as a note under section 7401 of Title 20, Education.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2005, by Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2007, by Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2009, by Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2011, by Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Ex. Ord. No. 13585, §1(n), Sept. 30, 2011, 76 F.R. 62281, which extended term of President's Board of Advisors on Tribal Colleges and Universities until Sept. 30, 2013, was revoked by Ex. Ord. No. 13592, §5(c), Dec. 2, 2011, 76 F.R. 76607, set out as a note under section 7401 of Title 20, Education.

SUBCHAPTER I—TRIBALLY CONTROLLED COLLEGES OR UNIVERSITIES GRANT PROGRAM

§ 1802. Purpose

It is the purpose of this subchapter to provide grants for the operation and improvement of tribally controlled colleges or universities to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(Pub. L. 95-471, title I, §101, Oct. 17, 1978, 92 Stat. 1325; Pub. L. 98-192, §2, Dec. 1, 1983, 97 Stat. 1336; Pub. L. 105-244, title IX, §901(b)(6), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105-244 substituted “colleges or universities” for “community colleges”.

1983—Pub. L. 98-192 inserted “, and to allow for the improvement and expansion of the physical resources of such institutions”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

§ 1803. Grants authorized

(a) Purposes

The Secretary shall, subject to appropriations, make grants pursuant to this subchapter to tribally controlled colleges or universities to aid in the post-secondary education of Indian students.

(b) Deposit of funds; limitations on uses

Grants made pursuant to this subchapter shall go into the general operating funds of the insti-

tution to defray, at the determination of the tribally controlled college or university, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college or university. Funds provided pursuant to this subchapter shall not be used in connection with religious worship or sectarian instruction.

(Pub. L. 95-471, title I, §102, Oct. 17, 1978, 92 Stat. 1326; Pub. L. 98-192, §3(a), Dec. 1, 1983, 97 Stat. 1336; Pub. L. 105-244, title IX, §901(b)(5), (6), (12), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, §901(b)(6), substituted “colleges or universities” for “community colleges”.

Subsec. (b). Pub. L. 105-244, §901(b)(5), (12), substituted “controlled college or university” for “controlled community college” and “the college or university” for “the college”.

1983—Subsec. (a). Pub. L. 98-192, §3(a)(1), substituted “shall, subject to appropriations,” for “is authorized to”.

Subsec. (b). Pub. L. 98-192, §3(a)(2), substituted “to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college” for “to defray the expense of activities related to education programs for Indian students”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

§ 1804. Eligible grant recipients

To be eligible for assistance under this subchapter, a tribally controlled college or university must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians;

(3) if in operation for more than one year, has students a majority of whom are Indians; and

(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

(B) according to such an agency or association, is making reasonable progress toward accreditation.

(Pub. L. 95-471, title I, §103, Oct. 17, 1978, 92 Stat. 1326; Pub. L. 105-244, title IX, §901(b)(5), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 110-315, title IX, §941(d), Aug. 14, 2008, 122 Stat. 3461.)

AMENDMENTS

2008—Par. (4). Pub. L. 110-315 added par. (4).

1998—Pub. L. 105-244 substituted “college or university” for “community college” in introductory provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see sec-