

United States Code, the Director of the BIE [Bureau of Indian Education], or the Director's designee, is authorized to enter into agreements with public and private persons and entities that provide for such persons and entities to rent or lease the land or facilities of a Bureau-operated school for such periods of time as the school is Bureau operated, in exchange for a consideration (in the form of funds) that benefits the school, as determined by the head of the school.

“(2) Funds received under paragraph (1) shall be retained by the school and used for school purposes otherwise authorized by law. Any funds received under paragraph (1) are hereby made available until expended for such purposes, notwithstanding section 3302 of title 31, United States Code.

“(3) Nothing in this section shall be construed to allow for the diminishment of, or otherwise affect, the appropriation of funds to the budget accounts for the operation and maintenance of Bureau-operated schools. No funds shall be withheld from the distribution to the budget of any Bureau-operated school due to the receipt by the school of a benefit in accordance with this section.

“(b) Notwithstanding any provision of title 5, United States Code, or any regulation promulgated under such title, education personnel who are under the direction and supervision of the Secretary of the Interior may participate in a fundraising activity for the benefit of a Bureau-operated school in an official capacity as part of their official duties. When participating in such an official capacity, the employee may use the employee's official title, position, and authority. Nothing in this subsection shall be construed to authorize participation in political activity (as such term is used in section 7324 of title 5, United States Code) otherwise prohibited by law.

“(c) The Secretary of the Interior shall promulgate regulations to carry out this section not later than 16 months after the date of the enactment of this Act [Dec. 23, 2011]. Such regulations shall include—

“(1) standards for the appropriate use of Bureau-operated school lands and facilities by third parties under a rental or lease agreement;

“(2) provisions for the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a school in accordance with this section (including, in appropriate cases, the establishment and administration of trust funds);

“(3) accountability standards to ensure ethical conduct; and

“(4) provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

“(d) Provisions of this section shall apply to fiscal years 2012 through 2014.”

#### THERAPEUTIC MODEL DEMONSTRATION SCHOOLS

Pub. L. 103-382, title V, §566, Oct. 20, 1994, 108 Stat. 4059, provided that:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools, based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

“(2) PURPOSE.—The purpose of the therapeutic model demonstration schools is—

“(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

“(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

“(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

“(b) LOCATION.—The Secretary shall initiate the therapeutic model at two schools during school years 1994 through 1996, and shall give priority to—

“(1) one school that is the recipient of a grant under section 5204 of the August [Augustus] F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 [25 U.S.C. 2503] during the 1994-1995 school year; and

“(2) one school operated by the Bureau of Indian Affairs during the 1995-1996 school year.

“(c) SERVICES.—The demonstration schools shall provide an integrated residential environment that may include—

“(1) mental health services;

“(2) education;

“(3) recreation therapy;

“(4) social service programs;

“(5) substance abuse education and prevention; and

“(6) other support services for aftercare.

“(d) STAFFING.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include—

“(1) clinical psychologists;

“(2) child psychologists;

“(3) substance abuse counselors;

“(4) social workers; and

“(5) health educators.

“(e) ENROLLMENT.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

“(f) ASSISTANCE.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

“(g) REPORT.—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.”

### § 2001. Accreditation for the basic education of Indian children in Bureau of Indian Affairs schools

#### (a) Purpose; declarations of purpose

##### (1) Purpose

The purpose of the accreditation required under this section shall be to ensure that Indian students being served by a school funded by the Bureau of Indian Affairs are provided with educational opportunities that equal or exceed those for all other students in the United States.

##### (2) Declarations of purpose

Local school boards for schools operated by the Bureau of Indian Affairs, in cooperation and consultation with the appropriate tribal governing bodies and their communities, are encouraged to adopt declarations of purpose for education for their communities, taking into account the implications of such declarations on education in their communities and for their schools. In adopting such declarations of purpose, the school boards shall consider the effect the declarations may have on the motivation of students and faculties.

**(b) Accreditation****(1) Deadline****(A) In general**

Not later than 24 months after January 8, 2002, each Bureau-funded school shall, to the extent that necessary funds are provided, be a candidate for accreditation or be accredited—

(i) by a tribal accrediting body, if the accreditation standards of the tribal accrediting body have been accepted by formal action of the tribal governing body and such accreditation is acknowledged by a generally recognized State certification or regional accrediting agency;

(ii) by a regional accreditation agency;

(iii) by State accreditation standards for the State in which the Bureau-funded school is located; or

(iv) in the case of a Bureau-funded school that is located on a reservation that is located in more than one State, in accordance with the State accreditation standards of one State as selected by the tribal government.

**(B) Feasibility study**

Not later than 12 months after January 8, 2002, the Secretary of the Interior and the Secretary of Education shall, in consultation with Indian tribes, Indian education organizations, and accrediting agencies, develop and submit to the appropriate committees of Congress a report on the desirability and feasibility of establishing a tribal accreditation agency that would—

(i) review and acknowledge the accreditation standards for Bureau-funded schools; and

(ii) establish accreditation procedures to facilitate the application, review of the standards and review processes, and recognition of qualified and credible tribal departments of education as accrediting bodies serving tribal schools.

**(2) Determination of accreditation to be applied**

The accreditation type applied for each school shall be determined by the tribal governing body, or the school board, if authorized by the tribal governing body.

**(3) Assistance to school boards****(A) In general**

The Secretary, through contracts and grants, shall provide technical and financial assistance to Bureau-funded schools, to the extent that necessary amounts are made available, to enable such schools to obtain the accreditation required under this subsection, if the school boards request that such assistance, in part or in whole, be provided.

**(B) Entities through which assistance may be provided**

The Secretary may provide such assistance directly or through the Department of Education, an institution of higher education, a private not-for-profit organization

or for-profit organization, an educational service agency, or another entity with demonstrated experience in assisting schools in obtaining accreditation.

**(4) Application of current standards during accreditation**

A Bureau-funded school that is seeking accreditation shall remain subject to the standards issued under this section<sup>1</sup> and in effect on the day before January 8, 2002, until such time as the school is accredited, except that if any of such standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

**(5) Annual report on unaccredited schools**

Not later than 90 days after the end of each school year, the Secretary shall prepare and submit to the Committee on Appropriations, the Committee on Education and the Workforce, and the Committee on Resources of the House of Representatives and the Committee on Appropriations, the Committee on Indian Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning unaccredited Bureau-funded schools that—

(A) identifies those Bureau-funded schools that fail to be accredited or to be candidates for accreditation within the period provided for in paragraph (1);

(B) with respect to each Bureau-funded school identified under subparagraph (A), identifies the reasons that each such school is not accredited or a candidate for accreditation, as determined by the appropriate accreditation agency, and a description of any possible way in which to remedy such non-accreditation; and

(C) with respect to each Bureau-funded school for which the reported reasons for the lack of accreditation under subparagraph (B) are a result of the school's inadequate basic resources, contains information and funding requests for the full funding needed to provide such schools with accreditation, such funds if provided shall be applied to such unaccredited school under this paragraph.

**(6) Opportunity to review and present evidence****(A) In general**

Prior to including a Bureau-funded school in an annual report required under paragraph (5), the Secretary shall—

(i) ensure that the school has exhausted all administrative remedies provided by the accreditation agency; and

(ii) provide the school with an opportunity to review the data on which such inclusion is based.

**(B) Provision of additional information**

If the school board of a school that the Secretary has proposed for inclusion in an annual report under paragraph (5) believes that such inclusion is in error, the school board may provide to the Secretary such in-

<sup>1</sup> See References in Text note below.

formation as the board believes is in conflict with the information and conclusions of the Secretary with respect to the determination to include the school in such annual report. The Secretary shall consider such information provided by the school board before making a final determination concerning the inclusion of the school in any such report.

**(C) Publication of accreditation status**

Not later than 30 days after making an initial determination to include a school in an annual report under paragraph (5), the Secretary shall make public the final determination on the accreditation status of the school.

**(7) School plan**

**(A) In general**

Not later than 120 days after the date on which a school is included in an annual report under paragraph (5), the school shall develop a school plan, in consultation with interested parties including parents, school staff, the school board, and other outside experts (if appropriate), that shall be submitted to the Secretary for approval. The school plan shall cover a 3-year period and shall—

(i) incorporate strategies that address the specific issues that caused the school to fail to be accredited or fail to be a candidate for accreditation;

(ii) incorporate policies and practices concerning the school that have the greatest likelihood of ensuring that the school will obtain accreditation during the 3-year period beginning on the date on which the plan is implemented;

(iii) contain an assurance that the school will reserve the necessary funds, from the funds described in paragraph (3), for each fiscal year for the purpose of obtaining accreditation;

(iv) specify how the funds described in clause (iii) will be used to obtain accreditation;

(v) establish specific annual, objective goals for measuring continuous and significant progress made by the school in a manner that will ensure the accreditation of the school within the 3-year period described in clause (ii);

(vi) identify how the school will provide written notification about the lack of accreditation to the parents of each student enrolled in such school, in a format and, to the extent practicable, in a language the parents can understand; and

(vii) specify the responsibilities of the school board and any assistance to be provided by the Secretary under paragraph (3).

**(B) Implementation**

A school shall implement the school plan under subparagraph (A) expeditiously, but in no event later than the beginning of the school year following the school year in which the school was included in the annual report under paragraph (5) so long as the necessary resources have been provided to the school.

**(C) Review of plan**

Not later than 45 days after receiving a school plan, the Secretary shall—

(i) establish a peer-review process to assist with the review of the plan; and

(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

**(8) Corrective action**

**(A) Definition**

In this subsection, the term “corrective action” means any action that—

(i) substantially and directly responds to—

(I) the failure of a school to achieve accreditation; and

(II) any underlying staffing, curriculum, or other programmatic problem in the school that contributed to the lack of accreditation; and

(ii) is designed to increase substantially the likelihood that the school will be accredited.

**(B) Waiver**

The Secretary shall grant a waiver which shall exempt a school from any or all of the requirements of this paragraph and paragraph (7) (though such school shall be required to comply with the standards contained in part 36 of title 25, Code of Federal Register,<sup>2</sup> as in effect on January 8, 2002) if the school—

(i) is identified in the report described in paragraph (5)(C); and

(ii) fails to be accredited for reasons that are beyond the control of the school board, as determined by the Secretary, including, but not limited to—

(I) a significant decline in financial resources;

(II) the poor condition of facilities, vehicles, or other property; and

(III) a natural disaster.

**(C) Duties of Secretary**

After providing assistance to a school under paragraph (3), the Secretary shall—

(i) annually review the progress of the school under the applicable school plan to determine whether the school is meeting, or making adequate progress toward achieving the goals described in paragraph (7)(A)(v) with respect to reaccreditation or becoming a candidate for accreditation;

(ii) except as provided in subparagraph (B), continue to provide assistance while implementing the school’s plan, and, if determined appropriate by the Secretary, take corrective action with respect to the school if it fails to be accredited at the end of the third full year immediately following the date that the school’s plan was first in effect under paragraph (7);

(iii) provide all students enrolled in a school that is eligible for a corrective action determination by the Secretary under

<sup>2</sup> So in original. Probably should be “Regulations.”

clause (ii) with the option to transfer to another public or Bureau-funded school, including a public charter school, that is accredited;

(iv) promptly notify the parents of children enrolled in a school that is eligible for a corrective action determination by the Secretary under clause (ii) of the option to transfer their child to another public or Bureau-funded school; and

(v) provide, or pay for the provision of, transportation for each student described in clause (iii) to the school described in clause (iii) to which the student elects to be transferred to the extent funds are available, as determined by the tribal governing body.

**(D) Failure of school plan of Bureau-operated school**

With respect to a Bureau-operated school that fails to be accredited at the end of the third full year immediately following the date that the school's plan was first in effect under paragraph (7), the Secretary may take one or more of the following corrective actions:

(i) Institute and fully implement actions suggested by the accrediting agency.

(ii) Consult with the tribe involved to determine the causes for the lack of accreditation including potential staffing and administrative changes that are or may be necessary.

(iii) Set aside a certain amount of funds that may only be used by the school to obtain accreditation.

(iv)(I) Provide the tribe with a 60-day period during which to determine whether the tribe desires to operate the school as a contract or grant school before meeting the accreditation requirements in section 5207(c) of the Tribally Controlled Schools Act of 1988<sup>1</sup> at the beginning of the next school year following the determination to take corrective action. If the tribe agrees to operate the school as a contract or grant school, the tribe shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7), to achieve accreditation.

(II) If the tribe declines to assume control of the school, the Secretary, in consultation with the tribe, may contract with an outside entity, consistent with applicable law, or appoint a receiver or trustee to operate and administer the affairs of the school until the school is accredited. The outside entity, receiver, or trustee shall prepare a plan, pursuant to paragraph (7), for approval by the Secretary in accordance with paragraph (7).

(III) Upon accreditation of the school, the Secretary shall allow the tribe to continue to operate the school as a grant or contract school, or if the school is being controlled by an outside entity, provide the tribe with the option to assume operation of the school as a contract school, in accordance with the Indian Self-Deter-

mination Act [25 U.S.C. 450f et seq.], or as a grant school in accordance with the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.], at the beginning of the school year following the school year in which the school obtains accreditation. If the tribe declines, the Secretary may allow the outside entity, receiver, or trustee to continue the operation of the school or reassume control of the school.

**(E) Failure of school plan of contract or grant school**

**(i) Corrective action**

With respect to a contract or grant school that fails to be accredited at the end of the third full year immediately following the date that the school's plan was first in effect under paragraph (7), the Secretary may take one or more of the corrective actions described in subparagraph (D)(i) and (D)(ii). The Secretary shall implement such corrective action for at least 1 year prior to taking any action described under clause (ii).

**(ii) Outside entity**

If the corrective action described in clause (i) does not result in accreditation of the school, the Secretary, in conjunction with the tribal governing body, may contract with an outside entity to operate the school in order to achieve accreditation of the school within 2 school years. Prior to entering into such a contract, the Secretary shall develop a proposal for such operation which shall include, at a minimum, the following elements:

(I) The identification of one or more outside entities each of which has demonstrated to the Secretary its ability to develop a satisfactory plan for achieving accreditation and its willingness and availability to undertake such a plan.

(II) A plan for implementing operation of the school by such an outside entity, including the methodology for oversight and evaluation of the performance of the outside entity by the Secretary and the tribe.

**(iii) Proposal amendments**

The tribal governing body shall have 60 days to amend the plan developed pursuant to clause (ii), including identifying another outside entity to operate the school. The Secretary shall reach agreement with the tribal governing body on the proposal and any such amendments to the plan not later than 30 days after the expiration of the 60-day period described in the preceding sentence. After the approval of the proposal and any amendments, the Secretary, with continuing consultation with such tribal governing body, shall implement the proposal.

**(iv) Accreditation**

Upon accreditation of the school, the tribe shall have the option to assume the operation and administration of the school as a contract school after complying with

the Indian Self-Determination Act [25 U.S.C. 450f et seq.], or as a grant school, after complying with the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.], at the beginning of the school year following the year in which the school obtains accreditation.

**(v) Retrocede**

Nothing in this subparagraph shall limit a tribe's right to retrocede operation of a school to the Secretary pursuant to section 105(e) of the Indian Self-Determination Act [25 U.S.C. 450j(e)] (with respect to a contract school) or section 5204(f) of the Tribally Controlled Schools Act of 1988<sup>1</sup> (with respect to a grant school).

**(vi) Consistent**

The provisions of this subparagraph shall be construed to be consistent with the provisions of the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] and the Indian Self-Determination Act [25 U.S.C. 450f et seq.] as in effect on the day before January 8, 2002, and shall not be construed as expanding the authority of the Secretary under any other law.

**(F) Hearing**

With respect to a school that is operated pursuant to a grant, or a school that is operated under a contract under the Indian Self-Determination Act [25 U.S.C. 450f et seq.], prior to implementing any corrective action under this paragraph, the Secretary shall provide notice and an opportunity for a hearing to the affected school pursuant to section 5207 of the Tribally Controlled Schools Act of 1988.<sup>1</sup>

**(9) Statutory construction**

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school employees under applicable law (including applicable regulations or court orders) or under the terms of any collective bargaining agreement, memorandum of understanding, or other agreement between such employees and their employers.

**(10) Fiscal control and fund accounting standards**

The Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract and grant schools. Such standards shall provide data comparable to those used by Bureau-operated schools.

**(c) Annual plan**

**(1) In general**

Except as provided in subsection (b) of this section, the Secretary shall implement the standards in effect under this section<sup>1</sup> on the day before January 8, 2002.

**(2) Plan**

On an annual basis, the Secretary shall submit to the appropriate committees of Congress, all Bureau-funded schools, and the tribal governing bodies of such schools a detailed

plan to ensure that all Bureau-funded schools are accredited, or if such schools are in the process of obtaining accreditation that such schools meet the Bureau standards in effect on the day before January 8, 2002, to the extent that such standards do not conflict with the standards of the accrediting agency. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards, specific cost estimates for meeting such standards at each school, and specific timelines for bringing each school up to the level required by such standards.

**(d) Closure or consolidation of schools**

**(1) In general**

Except as specifically required by law—

(A) no Bureau-funded school or dormitory operated on or after January 1, 1992, may be closed, consolidated, or transferred to another authority; and

(B) no program of such a school may be substantially curtailed except in accordance with the requirements of this subsection.

**(2) Exceptions**

This subsection (other than this paragraph) shall not apply—

(A) in those cases in which the tribal governing body for a school, or the local school board concerned (if designated by the tribal governing body to act under this paragraph), requests the closure, consolidation, or substantial curtailment; or

(B) if a temporary closure, consolidation, or substantial curtailment is required by facility conditions that constitute an immediate hazard to health and safety.

**(3) Regulations**

The Secretary shall, by regulation, promulgate standards and procedures for the closure, transfer to another authority, consolidation, or substantial curtailment of Bureau schools, in accordance with the requirements of this subsection.

**(4) Notice**

**(A) In general**

In a case in which closure, transfer to another authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board will be notified immediately in writing, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review.

**(B) Decision to close**

If a formal decision is made to close, transfer to another authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated school board shall be notified not later than 180 days before the end of the school year preceding the proposed closure date.

**(C) Copies**

Copies of any such notices and information shall be—

- (i) submitted promptly to the appropriate committees of Congress; and
- (ii) published in the Federal Register.

**(5) Report**

The Secretary shall submit to the appropriate committees of Congress, the affected tribe, and the designated school board, a report describing the process of the active consideration or review referred to in paragraph (4) that includes—

(A) a study of the impact of such action on the student population;

(B) a description of those students with particular educational and social needs;

(C) recommendations to ensure that alternative services are available to such students; and

(D) a description of the consultation conducted between the potential service provider, current service provider, parents, tribal representatives and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students.

**(6) Limitation on certain actions**

No irrevocable action may be taken in furtherance of any such proposed school closure, transfer to another authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) prior to the end of the first full academic year after such report is made.

**(7) Approval of Indian tribes**

The Secretary shall not terminate, close, consolidate, contract, transfer to another authority, or take any other action relating to an elementary school or secondary school (or any program of such a school) of an Indian tribe without the approval of the governing body of any Indian tribe that would be affected by such an action.

**(e) Application for contracts or grants for non-Bureau-funded schools or expansion of Bureau-funded schools**

**(1) Review by Secretary**

**(A) Consideration of factors**

**(i) In general**

The Secretary shall consider only the factors described in subparagraph (B) in reviewing—

(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau-funded school; and

(II) applications from any tribe or school board of any Bureau-funded school for—

(aa) a school which is not a Bureau-funded school; or

(bb) the expansion of a Bureau-funded school which would increase the amount of funds received by the Indian tribe or school board under section 2007 of this title.

**(ii) No denial based on geographic proximity**

With respect to applications described in this subparagraph, the Secretary shall give

consideration to all factors described in subparagraph (B), but no such application shall be denied based primarily upon the geographic proximity of comparable public education.

**(B) Factors**

With respect to applications described in subparagraph (A), the Secretary shall consider the following factors relating to the program and services that are the subject of the application:

(i) The adequacy of the facilities or the potential to obtain or provide adequate facilities.

(ii) Geographic and demographic factors in the affected areas.

(iii) The adequacy of the applicant's program plans or, in the case of a Bureau-funded school, of projected needs analysis done either by the tribe or the Bureau.

(iv) Geographic proximity of comparable public education.

(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

(vi) Adequacy and comparability of programs already available.

(vii) Consistency of available programs with tribal educational codes or tribal legislation on education.

(viii) The history and success of those services for the proposed population to be served, as determined from all factors, including standardized examination performance.

**(2) Determination on application**

**(A) In general**

Not later than 180 days after the date on which an application described in paragraph (1)(A) is submitted to the Secretary, the Secretary shall make a determination of whether to approve the application.

**(B) Failure to make determination**

If the Secretary fails to make a determination with respect to an application by the date described in subparagraph (A), the application shall be deemed to have been approved by the Secretary.

**(3) Requirements for applications**

**(A) In general**

Notwithstanding paragraph (2)(B), an application described in paragraph (1)(A) may be approved by the Secretary only if—

(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application; and

(ii) written evidence of such approval is submitted with the application.

**(B) Included information**

Each application described in paragraph (1)(A) shall include information concerning each of the factors described in paragraph (1)(B).

**(4) Denial of applications**

If the Secretary denies an application described in paragraph (1)(A), the Secretary shall—

(A) state the objections to the application in writing to the applicant not later than 180 days after the date the application is submitted to the Secretary;

(B) provide assistance to the applicant to overcome the stated objections;

(C) provide to the applicant a hearing on the record regarding the denial, under the same rules and regulations as apply under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(D) provide to the applicant a notice of the applicant's appeals rights and an opportunity to appeal the decision resulting from the hearing under subparagraph (D).

**(5) Effective date of a subject application****(A) In general**

Except as otherwise provided in this paragraph, an action that is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective—

(i) at the beginning of the academic year following the fiscal year in which the application is approved; or

(ii) at an earlier date determined by the Secretary.

**(B) Applications deemed approved**

If an application is deemed to have been approved by the Secretary under paragraph (2)(B), the action that is the subject of the application shall become effective—

(i) on the date that is 18 months after the date on which the application is submitted to the Secretary; or

(ii) at an earlier date determined by the Secretary.

**(6) Statutory construction**

Nothing in this section or any other provision of law, shall be construed to preclude the expansion of grades and related facilities at a Bureau-funded school, if such expansion is paid for with non-Bureau funds. Subject to the availability of appropriated funds the Secretary is authorized to provide the necessary funds needed to supplement the cost of operations and maintenance of such expansion.

**(f) Joint administration**

Administrative, transportation, and program cost funds received by Bureau-funded schools, and any program from the Department of Education or any other Federal agency for the purpose of providing education or related services, and other funds received for such education and related services from nonfederally funded programs, shall be apportioned and the funds shall be retained at the school.

**(g) General use of funds**

Funds received by Bureau-funded schools from the Bureau of Indian Affairs, and under any program from the Department of Education or any other Federal agency, for the purpose of provid-

ing education or related services may be used for schoolwide projects to improve the educational program for all Indian students.

**(h) Study on adequacy of funds and formulas****(1) Study**

The Comptroller General of the United States shall conduct a study to determine the adequacy of funding, and formulas used by the Bureau to determine funding, for programs operated by Bureau-funded schools, taking into account unique circumstances applicable to Bureau-funded schools. The study shall analyze existing information gathered and contained in germane studies that have been conducted or are currently being conducted with regard to Bureau-funded schools.

**(2) Action**

Upon completion of the study, the Secretary of the Interior shall take such action as necessary to ensure distribution of the findings of the study to all affected Indian tribes, local school boards, and associations of local school boards.

(Pub. L. 95-561, title XI, § 1121, as added Pub. L. 107-110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007; amended Pub. L. 109-54, title I, § 127, Aug. 2, 2005, 119 Stat. 525.)

## REFERENCES IN TEXT

This section, referred to in subsec. (b)(4) and the second place appearing in subsec. (c)(1), mean section 1121 of Pub. L. 95-561, prior to the general amendment of this chapter by Pub. L. 107-110. See Prior Provisions notes below.

The Indian Self-Determination Act, referred to in subsec. (b)(8)(D) to (F), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (b)(8)(D) to (F), is part B (§§ 5201-5212) of title V of Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of this title. Sections 5204 and 5207 of the Act were classified to sections 2503 and 2506, respectively, of this title, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. Pub. L. 107-110 enacted new sections 5204 and 5207 which are classified to sections 2503 and 2506, respectively, of this title. Pub. L. 107-110 enacted new sections 5203 and 5206 of Pub. L. 100-297, relating to subject matter similar to that of former sections 5204 and 5207, respectively, which are classified to sections 2502 and 2505, respectively, of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Indian Self-Determination and Education Assistance Act referred to in subsec. (e)(4)(C), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

## PRIOR PROVISIONS

A prior section 2001, Pub. L. 95-561, title XI, § 1121, as added Pub. L. 103-382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979; amended Pub. L. 104-134, title I, § 101(d) [title VII, § 703(d)], Apr. 26, 1996, 110 Stat. 1321-211, 1321-255; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-362, title VIII, § 801(c)(1), Nov. 10, 1998, 112 Stat. 3287, related to standards for basic edu-

cation of Indian children in Bureau of Indian Affairs schools, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2001, Pub. L. 95-561, title XI, §1121, Nov. 1, 1978, 92 Stat. 2316; Pub. L. 96-46, §2(b)(2)-(4), Aug. 6, 1979, 93 Stat. 341; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98-511, title V, §502, Oct. 19, 1984, 98 Stat. 2391; Pub. L. 99-89, §2, Aug. 15, 1985, 99 Stat. 379; Pub. L. 99-570, title IV, §4133(b)(3), Oct. 27, 1986, 100 Stat. 3207-134; Pub. L. 100-297, title V, §§5102, 5104, Apr. 28, 1988, 102 Stat. 363, 365; Pub. L. 100-427, §1(a), (b), Sept. 9, 1988, 102 Stat. 1603; Pub. L. 102-531, title III, §312(b), Oct. 27, 1992, 106 Stat. 3504, related to standards for basic education of Indian children in Bureau or contract schools, prior to the general amendment of this chapter by Pub. L. 103-382.

#### AMENDMENTS

2005—Subsec. (d)(7). Pub. L. 109-54 added par. (7) and struck out heading and text of former par. (7). Text read as follows: “The Secretary may, with the approval of the tribal governing body, terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

“(A) any Bureau-funded school that is operated on or after January 1, 1999;

“(B) any program of such a school that is operated on or after January 1, 1999; or

“(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988.”

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 2002. National criteria for home-living situations

#### (a) Revision of standards

##### (1) In general

The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau-funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy.

##### (2) Implementation

Such standards shall be implemented in Bureau-operated schools, and shall serve as minimum standards for contract or grant schools.

##### (3) Revision after establishment

Once established, any revisions of such standards shall be developed according to the requirements established under section 2017 of this title.

#### (b) Implementation

The Secretary shall implement the revised standards established under this section immediately upon completion of the standards.

#### (c) Plan

##### (1) In general

The Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Fed-

eral Register, a detailed plan to bring all Bureau-funded schools that provide home-living (dormitory) situations up to the standards established under this section.

#### (2) Components of plan

The plan described in paragraph (1) shall include—

(A) a statement of the relative needs of each Bureau-funded home-living (dormitory) school;

(B) projected future needs of each Bureau-funded home-living (dormitory) school;

(C) detailed information on the status of each school in relation to the standards established under this section;

(D) specific cost estimates for meeting each standard for each such school;

(E) aggregate cost estimates for bringing all such schools into compliance with the criteria established under this section; and

(F) specific timelines for bringing each school into compliance with such standards.

#### (d) Waiver

##### (1) In general

A tribal governing body or local school board may, in accordance with this subsection, waive the standards established under this section for a school described in subsection (a) of this section.

##### (2) Inappropriate standards

###### (A) In general

A tribal governing body, or the local school board so designated by the tribal governing body, may waive, in whole or in part, the standards established under this section if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

###### (B) Alternative standards

The tribal governing body or school board involved shall, not later than 60 days after providing a waiver under subparagraph (A) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the affected tribes or local school board.

##### (e) Closure for failure to meet standards prohibited

No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

(Pub. L. 95-561, title XI, §1122, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2018.)

#### PRIOR PROVISIONS

A prior section 2002, Pub. L. 95-561, title XI, §1122, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3984; amended Pub. L. 105-362, title VIII, §801(c)(2), Nov. 10, 1998, 112 Stat. 3288, related to national criteria