

**§ 2017. Regulations****(a) Promulgation****(1) In general**

The Secretary may promulgate only such regulations—

(A) as are necessary to ensure compliance with the specific provisions of this chapter; and

(B) as the Secretary is authorized to promulgate pursuant to section 2510 of this title.<sup>1</sup>

**(2) Publication**

In promulgating the regulations, the Secretary shall—

(A) publish proposed regulations in the Federal Register; and

(B) provide a period of not less than 120 days for public comment and consultation on the regulations.

**(3) Citation**

The regulations shall contain, immediately following each regulatory section, a citation to any statutory provision providing authority to promulgate such regulatory section.

**(b) Miscellaneous**

The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this Act and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act.

(Pub. L. 95-561, title XI, §1137, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2056.)

## REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended, known as the Education Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

## PRIOR PROVISIONS

A prior section 2017, Pub. L. 95-561, title XI, §1137, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4011; amended Pub. L. 105-244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 105-362, title VIII, §801(c)(4), Nov. 10, 1998, 112 Stat. 3288, related to biennial report, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2015 of this title.

Another prior section 2017, Pub. L. 95-561, title XI, §1137, Nov. 1, 1978, 92 Stat. 2327, related to constitutional and civil rights of Indian children attending Bureau schools, prior to the general amendment of this chapter by Pub. L. 103-382.

**§ 2018. Regional meetings and negotiated rulemaking****(a) Regional meetings**

Prior to publishing any proposed regulations under subsection (b)(1) of this section, and prior to establishing the negotiated rulemaking committee under subsection (b)(3) of this section, the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, and tribal officials, parents, teachers,

administrators, and school board members of tribes served by Bureau-funded schools to provide guidance to the Secretary on the content of regulations authorized to be promulgated under this chapter and the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

**(b) Negotiated rulemaking****(1) In general**

Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary shall promulgate regulations authorized under subsection (a) of this section and under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.], in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, and shall publish final regulations in the Federal Register.

**(2) Notification to Congress**

If draft regulations implementing this chapter and the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] are not promulgated in final form within 18 months after January 8, 2002, the Secretary shall notify the appropriate committees of Congress of which draft regulations were not promulgated in final form by the deadline and the reason such final regulations were not promulgated.

**(3) Rulemaking committee**

The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

(A) apply the procedures provided for under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally operated schools;

(D) ensure, to the maximum extent possible, that the tribal representative membership on the committee reflects the proportionate share of students from tribes served by the Bureau-funded school system; and

(E) comply with the Federal Advisory Committee Act (5 U.S.C. App.).

**(4) Special rule**

The Secretary shall carry out this section using the general administrative funds of the Department of the Interior. In accordance with subchapter III of chapter 5 of title 5 and section 7(d) of the Federal Advisory Committee Act, payment of costs associated with negotiated rulemaking shall include the reasonable expenses of committee members.

**(c) Application of section****(1) Supremacy of provisions**

The provisions of this section shall supersede any conflicting regulations in effect on the day before the date of enactment of this chapter, and the Secretary may repeal any

<sup>1</sup> So in original. Probably should be section "2509".