

to repeal by Pub. L. 105-362, title VIII, §801(c)(5), Nov. 10, 1998, 112 Stat. 3288. See section 2017 of this title.

Another prior section 2019, Pub. L. 95-561, title XI, §1139, Nov. 1, 1978, 92 Stat. 2328; Pub. L. 100-297, title V, §5117, Apr. 28, 1988, 102 Stat. 382; Pub. L. 100-427, §1(c)(1), (2), Sept. 9, 1988, 102 Stat. 1603; Pub. L. 101-301, §5(a), May 24, 1990, 104 Stat. 207, defined terms used in this chapter, prior to the general amendment of this chapter by Pub. L. 103-382.

§ 2020. Tribal departments or divisions of education

(a) In general

Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

(b) Applications

For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) Diversity

The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

(d) Use

Tribes that receive grants under this section shall use the funds made available through the grants—

(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau-funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

(e) Priorities

In making grants under this section, the Secretary shall give priority to any application that—

(1) includes—

(A) assurances that the applicant serves three or more separate Bureau-funded schools; and

(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools;

(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

(3) provides a plan and schedule that—

(A) provides for—

(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

(f) Time period of grant

Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

(g) Terms, conditions, or requirements

A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 450h(a) of this title that are in effect on the date that the tribal governing body submits the application for the grant under subsection (b) of this section. The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$2,000,000.

(Pub. L. 95-561, title XI, §1140, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2059.)

PRIOR PROVISIONS

A prior section 2020, Pub. L. 95-561, title XI, §1140, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4011, related to voluntary services, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2020, Pub. L. 95-561, title XI, §1140, as added Pub. L. 98-511, title V, §511, Oct. 19, 1984, 98 Stat. 2397; amended Pub. L. 99-89, §8, Aug. 15, 1985, 99 Stat. 383, related to voluntary services, prior to the general amendment of this chapter by Pub. L. 103-382.

§ 2021. Definitions

For the purposes of this chapter, unless otherwise specified:

(1) Agency school board

The term “agency school board” means a body—

(A) the members of which are appointed by all of the school boards of the schools lo-

cated within an agency, including schools operated under contract or grant; and

(B) the number of such members is determined by the Secretary, in consultation with the affected tribes;

except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school.

(2) Bureau

The term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior.

(3) Bureau-funded school

The term “Bureau-funded school” means—

- (A) a Bureau school;
- (B) a contract or grant school; or
- (C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

(4) Bureau school

The term “Bureau school” means a Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school.

(5) Complementary educational facilities

The term “complementary educational facilities” means educational program functional spaces such as libraries, gymnasiums, and cafeterias.

(6) Contract or grant school

The term “contract or grant school” means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 450f, 450h(a), or 458d of this title, or under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

(7) Director

The term “Director” means the Director of the Office of Indian Education Programs.

(8) Education line officer

The term “education line officer” means a member of the education personnel under the supervision of the Director of the Office, whether located in a central, area, or agency office.

(9) Family literacy services

The term “family literacy services” has the meaning given that term in section 7801¹ of title 20.

(10) Financial plan

The term “financial plan” means a plan of services provided by each Bureau school.

(11) Indian organization

The term “Indian organization” means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or

a majority of whose members are members of federally recognized tribes.

(12) Inherently Federal functions

The term “inherently Federal functions” means functions and responsibilities which, under section 2006(c) of this title, are non-contractable, including—

(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

(B) the administration of Federal personnel laws for Federal employees;

(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary;

(D) the conducting of administrative hearings and deciding of administrative appeals;

(E) the determination of the Secretary’s views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

(G) reporting to Congress and the President;

(H) the formulation of the Secretary’s and the President’s policies and their budgetary and legislative recommendations and views; and

(I) the nondelegable statutory duties of the Secretary relating to trust resources.

(13) Local educational agency

The term “local educational agency” means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

(14) Local school board

The term “local school board”, when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

(15) Office

The term “Office” means the Office of Indian Education Programs within the Bureau.

(16) Regulation

(A) In general

The term “regulation” means any part of a statement of general or particular applica-

¹ See References in Text note below.

bility of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this Act.

(B) Rule of construction

Nothing in subparagraph (A) or any other provision of this chapter shall be construed to prohibit the Secretary from issuing guidance, internal directives, or other documents similar to the documents found in the Indian Affairs Manual of the Bureau of Indian Affairs.

(17) Secretary

The term “Secretary” means the Secretary of the Interior.

(18) Supervisor

The term “supervisor” means the individual in the position of ultimate authority at a Bureau school.

(19) Tribal governing body

The term “tribal governing body” means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

(20) Tribe

The term “tribe” means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to the Alaska 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 Indians.

(Pub. L. 95-561, title XI, §1141, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2061.)

REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in pars. (3)(C) and (6), 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. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

Section 7801 of title 20, referred to in par. (9), was in the original “section 8101 of the Elementary and Secondary Education Act of 1965”, meaning section 8101 of Pub. L. 89-10, which was translated as if it referred to section 9101 of that Act to reflect the probable intent of Congress, because section 8101 was repealed by Pub. L. 107-110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986, and section 9101, as added by Pub. L. 107-110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956, defines “family literacy services”.

This Act, referred to in par. (16)(A), 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.

This chapter, referred to in par. (16)(B), was in the original “this title”, meaning title XI (§1101 et seq.) of Pub. L. 95-561, as amended, which is classified principally to this chapter. For complete classification of title XI to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in par. (20), is 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 com-

plete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 2021, Pub. L. 95-561, title XI, §1141, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012, related to proration of pay, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2021, Pub. L. 95-561, title XI, §1140A, formerly §1141, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398; renumbered §1140A and amended Pub. L. 99-89, §9(a)(1), (b), Aug. 15, 1985, 99 Stat. 383, related to proration of pay, prior to the general amendment of this chapter by Pub. L. 103-382.

A prior section 2022, Pub. L. 95-561, title XI, §1142, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012, related to extracurricular activities, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2022 and prior sections 2022a and 2022b were omitted in the general amendment of this chapter by Pub. L. 103-382.

Section 2022, Pub. L. 95-561, title XI, §1140B, formerly §1142, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398; renumbered §1140B, and amended Pub. L. 99-89, §9(a)(1), (c), Aug. 15, 1985, 99 Stat. 383, related to extracurricular activities.

Section 2022a, Pub. L. 95-561, title XI, §1141, as added Pub. L. 100-297, title V, §5116(2), Apr. 28, 1988, 102 Stat. 381, related to early childhood development program.

Section 2022b, Pub. L. 95-561, title XI, §1142, as added Pub. L. 100-297, title V, §5119, Apr. 28, 1988, 102 Stat. 383, related to tribal departments of education.

A prior section 2023, Pub. L. 95-561, title XI, §1143, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1607(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-335, related to early childhood development program, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2019 of this title.

Another prior section 2023, Pub. L. 95-561, title XI, §1143, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398, related to employee housing, rental rates, and waiver of rentals during non-session periods and non-pay status, prior to repeal by Pub. L. 99-89, §9(a)(2), Aug. 15, 1985, 99 Stat. 383.

Prior sections 2024 to 2026 were omitted in the general amendment of this chapter by Pub. L. 107-110.

Section 2024, Pub. L. 95-561, title XI, §1144, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4013; amended Pub. L. 105-244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828, related to tribal departments of education. See section 2020 of this title.

Section 2025, Pub. L. 95-561, title XI, §1145, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4015, related to payments to grantees.

Section 2026, Pub. L. 95-561, title XI, §1146, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4015; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1607(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-335, defined terms. See section 2021 of this title.

CHAPTER 23—DEVELOPMENT OF TRIBAL MINERAL RESOURCES

Sec.	Definitions.
2101.	Minerals Agreements.
2102.	Secretary’s determination on Minerals Agreements.
2103.	Secretary’s review of prior Minerals Agreements.
2104.	Effect of other provisions.
2105.	Assistance to tribes or individuals during Minerals Agreement negotiations.
2106.	Regulations; consultation with Indian organizations; pending agreements.
2107.	Tribal right to develop mineral resources.
2108.	