

to the extent such provision is not in conflict with this part, shall be made a part of a funding agreement or compact entered into under this part. The Secretary is obligated to include such provision at the option of the participating Indian tribe or tribes. If such provision is incorporated it shall have the same force and effect as if it were set out in full in this part. In the event an Indian tribe requests such incorporation at the negotiation stage of a compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

(Pub. L. 93-638, title V, §516, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 729.)

REFERENCES IN TEXT

Section 314 of Pub. L. 101-512, referred to in subsec. (a), is section 314 of Pub. L. 101-512, as amended, which is set out as a note under section 450f of this title.

Part A of this subchapter, referred to in subsec. (b), was in the original "title I", meaning title I of Pub. L. 93-638, known as the Indian Self-Determination Act, which is classified principally to part A (§450f et seq.) of this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 458aaa-16. Regulations**

**(a) In general**

**(1) Promulgation**

Not later than 90 days after August 18, 2000, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this part.

**(2) Publication of proposed regulations**

Proposed regulations to implement this part shall be published in the Federal Register by the Secretary no later than 1 year after August 18, 2000.

**(3) Expiration of authority**

The authority to promulgate regulations under paragraph (1) shall expire 21 months after August 18, 2000.

**(b) Committee**

**(1) In general**

A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this subchapter.

**(2) Requirements**

The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

**(c) Adaptation of procedures**

The Secretary shall adapt the negotiated rule-making procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

**(d) Effect**

The lack of promulgated regulations shall not limit the effect of this part.

**(e) Effect of circulars, policies, manuals, guidelines, and rules**

Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 450j(g) of this title and regulations promulgated under this section.

(Pub. L. 93-638, title V, §517, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

**§ 458aaa-17. Appeals**

In any appeal (including civil actions) involving decisions made by the Secretary under this part, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

(1) the validity of the grounds for the decision made; and

(2) that the decision is fully consistent with provisions and policies of this part.

(Pub. L. 93-638, title V, §518, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

**§ 458aaa-18. Authorization of appropriations**

**(a) In general**

There are authorized to be appropriated such sums as may be necessary to carry out this part.

**(b) Availability of appropriations**

Notwithstanding any other provision of this subchapter, the provision of funds under this subchapter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this subchapter.

(Pub. L. 93-638, title V, §519, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 731.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

PART F—TRANSFERRED

CODIFICATION

This part was formerly comprised of title V of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2936, which was redesignated title