

**(2) Nonsectarian use**

Funds provided under any grant made under this chapter may not be used in connection with religious worship or sectarian instruction.

**(3) Administrative costs limitation**

Funds provided under any grant under this chapter may not be expended for administrative costs (as defined in section 1128(h)(1) of the Education Amendments of 1978 [25 U.S.C. 2008(h)(1)]) in excess of the amount generated for such costs under section 1128 of such Act.

**(c) Limitation on transfer of funds among school sites****(1) In general**

In the case of a grantee that operates schools at more than one school site, the grantee may expend at any school site operated by the grantee not more than the lesser of—

(A) 10 percent of the funds allocated for another school site under section 1128 of the Education Amendments of 1978 [25 U.S.C. 2008]; or

(B) \$400,000 of the funds allocated for another school site.

**(2) Definition of school site**

For purposes of this subsection, the term “school site” means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract or grant with, the Bureau for which a discreet<sup>1</sup> student count is identified under the funding formula established under section 1127 of the Education Amendments of 1978 [25 U.S.C. 2007].

**(d) No requirement to accept grants**

Nothing in this chapter may be construed—

(1) to require a tribe or tribal organization to apply for or accept; or

(2) to allow any person to coerce any tribe or tribal organization to apply for, or accept,

a grant under this chapter to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications and the timing of such applications shall be strictly voluntary. Nothing in this chapter may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

**(e) No effect on Federal responsibility**

Grants provided under this chapter shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

**(f) Retrocession****(1) In general**

Whenever a tribal governing body requests retrocession of any program for which assistance is provided under this chapter, such retrocession shall become effective upon a date specified by the Secretary that is not later than 120 days after the date on which the trib-

al governing body requests the retrocession. A later date may be specified if mutually agreed upon by the Secretary and the tribal governing body. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this chapter prior to the retrocession.

**(2) Status after retrocession**

The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau-operated school or as a school operated under contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.].

**(3) Transfer of equipment and materials**

Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

(A) with assistance under this chapter; or

(B) upon assumption of operation of the program under this chapter, if the school was a Bureau-funded school under title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.] before receiving assistance under this chapter.

**(g) Prohibition of termination for administrative convenience**

Grants provided under this chapter may not be terminated, modified, suspended, or reduced solely for the convenience of the administering agency.

(Pub. L. 100-297, title V, § 5203, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2064.)

## REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (a)(1)(A) and (f)(3)(B), is Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. 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.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f)(2), 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 2502, Pub. L. 100-297, title V, § 5203, Apr. 28, 1988, 102 Stat. 385, set forth declaration of policy, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2501 of this title.

## EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as a note under section 6301 of Title 20, Education.

**§ 2502a. Retrocession or re-assumption of Indian education funds**

Beginning July 1, 2008, and thereafter, any funds (including investments and interest

<sup>1</sup> So in original. Probably should be “discrete”.

earned, except for construction funds) held by a Public Law 100-297 grant or a Public Law 93-638 contract school shall, upon retrocession to or re-assumption by the Bureau of Indian Education, remain available to the Bureau of Indian Education for a period of 5 years from the date of retrocession or re-assumption for the benefit of the programs approved for the school on October 1, 1995.

(Pub. L. 113-76, div. G, title I, §110, Jan. 17, 2014, 128 Stat. 312.)

#### REFERENCES IN TEXT

Public Law 100-297, referred to in text, is Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 130. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6301 of Title 20, Education, and Tables.

Public Law 93-638, referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, 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.

#### CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2014, and also as part of the Consolidated Appropriations Act, 2014, and not as part of the Tribally Controlled Schools Act of 1988 which comprises this chapter.

### § 2503. Composition of grants

#### (a) In general

The grant provided under this chapter to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1127 and 1128 of the Education Amendments of 1978 [25 U.S.C. 2007, 2008] with respect to the tribally controlled schools eligible for assistance under this chapter which are operated by such Indian tribe or tribal organization, including, but not limited to, funds provided under such sections, or under any other provision of law, for transportation costs;

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 450j of this title, or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to those referenced under section 1126(d) of the Education Amendments of 1978 [25 U.S.C. 2006(d)] or any other law); and

(3) the total amount of funds that are allocated to such schools for such fiscal year under—

(A) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(B) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; and

(C) any other Federal education law, that are allocated to such schools for such fiscal year.<sup>1</sup>

<sup>1</sup>So in original. The words “, that are allocated to such schools for such fiscal year” probably should not appear.

#### (b) Special rules

##### (1) In general

###### (A) Applicability of certain laws

Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) of subsection (a) shall be subject to the provisions of this chapter and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(ii) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; or

(iii) any Federal education law other than title XI of the Education Amendments of 1978 [25 U.S.C. 2000 et seq.].

###### (B) Applicability of Bureau provisions

Indian tribes and tribal organizations to which grants are provided under this chapter, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

##### (2) Schools considered contract schools

Tribally controlled schools for which grants are provided under this chapter shall be treated as contract schools for the purposes of allocation of funds under sections 1126(e), 1127, and 1128 of the Education Amendments of 1978 [25 U.S.C. 2006(e), 2007, 2008].

##### (3) Schools considered Bureau schools

Tribally controlled schools for which grants are provided under this chapter shall be treated as Bureau schools for the purposes of allocation of funds provided under—

(A) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(B) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.]; and

(C) any other Federal education law, that are distributed through the Bureau.

##### (4) Accounts; use of certain funds

###### (A) Separate account

###### (i) In general

Notwithstanding section 2503(a)(2)<sup>2</sup> of this title, with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant provided under section 2503(a)<sup>3</sup> of this title, the grant recipient shall maintain a separate account for such funds.

###### (ii) Submission of accounting

At the end of the period designated for the work covered by the funds received,

<sup>2</sup>So in original. Probably should be “2502(a)(2)”.

<sup>3</sup>So in original. Probably should be “2502(a)”.