

the school board, every 3 years an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to January 8, 2002.

(II) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, subclause (I) shall not apply.

(III) A positive assessment by an impartial evaluator under this clause shall not affect the revocation of a determination of eligibility by the Secretary where such revocation is based on circumstances that were within the control of the school board.

#### **(2) Notice requirements for revocation**

The Secretary shall not revoke a determination that a school is eligible for assistance under this chapter, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 2505(b)(1)(A)<sup>2</sup> of this title until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 2021 of this title) of the tribally controlled school which states—

- (i) the specific deficiencies that led to the revocation or resumption determination; and
- (ii) the actions that are needed to remedy such deficiencies; and

(B) affords such authority an opportunity to effect the remedial actions.

#### **(3) Technical assistance**

The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

#### **(4) Hearing and appeal**

In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 2505(f)(1)(C)<sup>3</sup> of this title; and

(B) an opportunity to appeal the decision resulting from the hearing.

#### **(d) Applicability of section pursuant to election under section 2507(b)**

With respect to a tribally controlled school that receives assistance under this chapter pursuant to an election made under section 2507(b) of this title—

(1) subsection (b) of this section shall apply; and

(2) the Secretary may not revoke eligibility for assistance under this chapter except in conformance with subsection (c) of this section.

(Pub. L. 100-297, title V, §5206, as added Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2072.)

#### REFERENCES IN TEXT

The Single Audit Act of 1984, referred to in subsec. (b)(1)(B), is Pub. L. 98-502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(1)(B)(iv)(I), 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 2505, Pub. L. 100-297, title V, §5206, Apr. 28, 1988, 102 Stat. 388; Pub. L. 100-427, §11, Sept. 9, 1988, 102 Stat. 1608; Pub. L. 105-362, title VIII, §801(d), Nov. 10, 1998, 112 Stat. 3288, related to eligibility for grants, prior to repeal by Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2063. See section 2504 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.

### **§ 2506. Payment of grants; investment of funds**

#### **(a) Payments**

##### **(1) In general**

Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this chapter in two payments, of which—

(A) the first payment shall be made not later than July 1 of each year in an amount equal to 80 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

##### **(2) Excess funding**

In a case in which the amount provided to a grant recipient under paragraph (1)(A) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The

<sup>2</sup> So in original. Probably should be section "2504(b)(1)(A)".

<sup>3</sup> So in original. Probably should be section "2504(f)(1)(C)".

amount returned to the Secretary under this paragraph shall be distributed equally to all schools in the system.

**(3) Newly funded schools**

For any school for which no payment under this chapter was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this chapter shall be made not later than December 1 of the academic year.

**(4) Late funding**

With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

**(5) Applicability of certain title 31 provisions**

The provisions of chapter 39 of title 31 shall apply to the payments required to be made by paragraphs (1), (3), and (4).

**(6) Restrictions**

Paragraphs (1), (3), and (4) shall be subject to any restriction on amounts of payments under this chapter that are imposed by a continuing resolution or other Act appropriating the funds involved.

**(b) Investment of funds**

**(1) Treatment of interest and investment income**

Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this chapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

**(2) Permissible investments**

Funds provided under this chapter may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this chapter so long as such funds are—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States, or securities that are guaranteed or insured by the United States; or

(B) deposited only into accounts that are insure by and<sup>1</sup> agency or instrumentality of the United States, or are fully collateralized

to ensure protection of the funds, even in the event of a bank failure.

**(c) Recoveries**

For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this chapter shall not be taken into consideration.

(Pub. L. 100-297, title V, §5207, as added Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2074.)

PRIOR PROVISIONS

A prior section 2506, Pub. L. 100-297, title V, §5207, Apr. 28, 1988, 102 Stat. 391; Pub. L. 100-427, §12, Sept. 9, 1988, 102 Stat. 1608, related to duration of eligibility determination, prior to repeal by Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2063. See section 2505 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.

**§ 2507. Application with respect to Indian Self-Determination and Education Assistance Act**

**(a) Certain provisions to apply to grants**

The following provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this chapter:

(1) Section 5(f) [25 U.S.C. 450c(f)] (relating to single agency audit).

(2) Section 6 [25 U.S.C. 450d] (relating to criminal activities; penalties).

(3) Section 7 [25 U.S.C. 450e] (relating to wage and labor standards).

(4) Section 104 [25 U.S.C. 450i] (relating to retention of Federal employee coverage).

(5) Section 105(f) [25 U.S.C. 450j(f)] (relating to Federal property).

(6) Section 105(k) [25 U.S.C. 450j(k)] (relating to access to Federal sources of supply).

(7) Section 105(l) [25 U.S.C. 450j(l)] (relating to lease of facility used for administration and delivery of services).

(8) Section 106(f) [25 U.S.C. 450j-1(f)] (relating to limitation on remedies relating to cost allowances).

(9) Section 106(j) [25 U.S.C. 450j-1(j)] (relating to use of funds for matching or cost participation requirements).

(10) Section 106(k) [25 U.S.C. 450j-1(k)] (relating to allowable uses of funds).

(11) Section 108(c) [25 U.S.C. 450l(c)] (Model Agreements provisions (1)(a)(5)<sup>1</sup> (relating to limitations of costs), (1)(a)(7)<sup>2</sup> (relating to records and monitoring), (1)(a)(8)<sup>3</sup> (relating to property), and (a)(1)(9)<sup>4</sup> (relating to availability of funds).<sup>5</sup>

(12) Section 109 [25 U.S.C. 450m] (relating to reassumption).

<sup>1</sup> So in original. Probably should be “1(b)(5)”.

<sup>2</sup> So in original. Probably should be “1(b)(7)”.

<sup>3</sup> So in original. Probably should be “1(b)(8)”.

<sup>4</sup> So in original. Probably should be “1(b)(9)”.

<sup>5</sup> So in original. There probably should be a second closing parenthesis.

<sup>1</sup> So in original. Probably should be “insured by an”.