

(Pub. L. 97-35, title VI, §658M, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-244; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

**§ 9858l. Nondiscrimination**

**(a) Religious nondiscrimination**

**(1) Construction**

**(A) In general**

Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

**(B) Exception**

A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

**(2) Discrimination against child**

**(A) In general**

A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

**(B) Non-funded child care slots**

Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

**(3) Employment in general**

**(A) Prohibition**

A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

**(B) Qualified applicants**

If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

**(C) Present employees**

This paragraph shall not apply to employees of child care providers receiving assist-

ance under this subchapter if such employees are employed with the provider on November 5, 1990.

**(4) Employment and admission practices**

Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

**(b) Effect on State law**

Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

(Pub. L. 97-35, title VI, §658N, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-245; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

**§ 9858m. Amounts reserved; allotments**

**(a) Amounts reserved**

**(1) Territories and possessions**

The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

**(2) Indians<sup>1</sup> tribes**

**(A) In general**

The Secretary shall reserve not less than 2 percent of the amount appropriated under section 9858 of this title in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c) of this section.

**(B) Limitations**

Notwithstanding subparagraph (A), the Secretary shall only reserve an amount that

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