

per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled college or university may use funds provided under section 13 of this title.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled college or university which demonstrates that neither such college or university nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college or university to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

**(d) Failure to use facility in approved manner; title to vest in United States; settlement**

If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under section 13 of this title) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

**(e) Religious use**

No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

**(f) "Construction" and "academic facilities" defined**

For the purposes of this section—

(1) the term "construction" includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 1132e-1(2)<sup>1</sup> of title 20); and

(2) the term "academic facilities" has the meaning provided such term under section 1132e-1(1)<sup>1</sup> of title 20.

<sup>1</sup> See References in Text note below.

(Pub. L. 95-471, title I, §113, formerly §112, Oct. 17, 1978, 92 Stat. 1329; renumbered §113 and amended Pub. L. 98-192, §§4(a)(1), 12, Dec. 1, 1983, 97 Stat. 1336, 1340; Pub. L. 99-428, §6(b), Sept. 30, 1986, 100 Stat. 983; Pub. L. 105-244, title I, §102(a)(8)(C), title IX, §901(b)(5), (7), (12), Oct. 7, 1998, 112 Stat. 1619, 1828.)

REFERENCES IN TEXT

Section 1132e-1 of title 20, referred to in subsec. (f), was omitted in the general revision of subchapter VII (§1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99-498, title VII, §701, Oct. 17, 1986, 100 Stat. 1520.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college".

Subsec. (b). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college" in introductory provisions.

Subsec. (b)(2). Pub. L. 105-244, §§102(a)(8)(C), 901(b)(7), substituted "section 1001" for "section 1141(a)" and "such college or university" for "such college".

Subsec. (c)(1). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college" in two places.

Subsec. (c)(2). Pub. L. 105-244, §901(b)(5), (7), (12), in introductory provisions, substituted "controlled college or university" for "controlled community college" and "such college or university" for "such college" and, in subpar. (E), substituted "the college or university" for "the college".

1986—Subsec. (a). Pub. L. 99-428 substituted "Secretary under" for "Administrator of General Services under".

1983—Pub. L. 98-192 amended section generally, substituting provision authorizing grants for construction of new facilities, establishing eligibility requirements for grants, maximum amounts of grants, waiver of amount restriction, results of failure to use facilities in an approved manner, and prohibition of religious use of such facilities, and defining "construction" and "academic facilities" for provision requiring Secretary of the Interior to conduct a detailed survey and study of academic facilities needs of tribally controlled community colleges and report to Congress not later than Nov. 1, 1979, the results of such survey and study.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

**§ 1814. Miscellaneous provisions**

**(a) Eligibility of Navajo Tribe**

The Navajo Tribe shall not be eligible to participate under the provisions of this subchapter.

**(b) Discriminatory practices prohibited**

(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this subchapter held by an institution determined to be in violation of paragraph (1).

(Pub. L. 95-471, title I, §114, formerly §113, Oct. 17, 1978, 92 Stat. 1329; renumbered §114, Pub. L. 98-192, §4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

**§ 1815. Rules and regulations****(a) Consultation with national Indian organizations**

Within four months from October 17, 1978, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this subchapter.

**(b) Publication**

Within six months from October 17, 1978, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

**(c) Promulgation**

Within ten months from October 17, 1978, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this subchapter.

**(d) Source of appropriations**

Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after October 17, 1978.

(Pub. L. 95-471, title I, §115, formerly §114, Oct. 17, 1978, 92 Stat. 1329; renumbered §115, Pub. L. 98-192, §4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

**PROMULGATION OF REGULATIONS; CONSULTATION**

Pub. L. 98-192, §15, Dec. 1, 1983, 97 Stat. 1343, provided that: "In promulgating any regulations to implement the amendments made by this Act [enacting sections 1804a and 1831 to 1836 of this title and amending former section 640c-1 and sections 1801 to 1803 and 1805 to 1813 of this title], the Secretary of the Interior shall consult with tribally controlled community colleges."

**SUBCHAPTER II—TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ENDOWMENT PROGRAM****§ 1831. Purpose**

It is the purpose of this subchapter to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled colleges or universities.

(Pub. L. 95-471, title III, §301, as added Pub. L. 98-192, §13, Dec. 1, 1983, 97 Stat. 1341; amended Pub. L. 105-244, title IX, §901(b)(6), Oct. 7, 1998, 112 Stat. 1828.)

**AMENDMENTS**

1998—Pub. L. 105-244 substituted "colleges or universities" for "community colleges".

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

**§ 1832. Establishment of program; program agreements**

(a) From the amount appropriated pursuant to section 1836 of this title, the Secretary shall establish a program of making endowment grants to tribally controlled colleges or universities which are current recipients of assistance under

section 1807 of this title or under section 3 of the Navajo Community College Act. No such college or university shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college or university shall be eligible for such a grant for a fiscal year if such college or university has been awarded a grant under section 1065 of title 20 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled college or university shall be made unless such college or university enters into an agreement with the Secretary which—

(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 1065(c) of title 20, except that for purposes of this paragraph, the term "trust fund" means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 1836 of this title;

(B) a capital contribution by such college or university in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college or university withdraws any capital contribution made by that college or university, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges or universities;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this subchapter and as are agreed to by the Secretary and the college or university, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(Pub. L. 95-471, title III, §302, as added Pub. L. 98-192, §13, Dec. 1, 1983, 97 Stat. 1341; amended Pub. L. 101-477, §1(d)(1)(A), (B), Oct. 30, 1990, 104 Stat. 1152, 1153; Pub. L. 103-382, title III, §383, Oct. 20, 1994, 108 Stat. 4018; Pub. L. 105-244, title IX, §901(b)(5)-(7), (12), (14), (15), Oct. 7, 1998, 112 Stat. 1828.)