

§ 2003. Codification of regulations

(a) Part 32 of Title 25, Code of Federal Regulations

The provisions of part 32 of title 25, Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

(b) Definition of regulation

In this section, the term “regulation” means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by any officer or employee of the executive branch.

(Pub. L. 95-561, title XI, §1123, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2019.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended, known as the Education Amendments of 1978. 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.

PRIOR PROVISIONS

A prior section 2003, Pub. L. 95-561, title XI, §1123, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3985, related to the incorporation of regulations into, or the application of regulations to, Pub. L. 95-561, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2003, Pub. L. 95-561, title XI, §1123, Nov. 1, 1978, 92 Stat. 2319; Pub. L. 100-297, title V, §5106, Apr. 28, 1988, 102 Stat. 367, related to the incorporation of regulations into, or the application of regulations to, Pub. L. 95-561, prior to the general amendment of this chapter by Pub. L. 103-382.

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.

§ 2004. School boundaries

(a) Establishment by Secretary

The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau-funded school.

(b) Establishment by tribal body

In any case where there is more than one Bureau-funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau-funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

(c) Boundary revisions

(1) Notice

On or after July 1, 2001, no geographical attendance area shall be revised or established

with respect to any Bureau-funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

(B) the opportunity to propose alternative boundaries.

(2) Revision process

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

(3) Tribal resolution determination

Nothing in this section shall deny a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau-funded school their children may attend, regardless of the attendance boundaries established under this section.

(d) Funding restrictions

(1) In general

The Secretary shall not deny funding to a Bureau-funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the geographical attendance area established for that school under this section.

(2) Transportation

No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

(e) Reservation as boundary

When there is only one Bureau-funded program located on an Indian reservation—

(1) the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served; and

(2) those students residing near the reservation shall also receive services from such program.

(f) Off-reservation home-living (dormitory) schools

(1) In general

Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school.

(2) Coordination

Such attendance shall be coordinated between education line officers, the family, and the referring and receiving programs.

(Pub. L. 95-561, title XI, §1124, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2019.)

PRIOR PROVISIONS

A prior section 2004, Pub. L. 95-561, title XI, §1124, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3986, related to school boundaries, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2004, Pub. L. 95-561, title XI, §1124, Nov. 1, 1978, 92 Stat. 2319; Pub. L. 98-511, title V, §503, Oct. 19, 1984, 98 Stat. 2393; Pub. L. 99-89, §3, Aug. 15, 1985, 99 Stat. 380; Pub. L. 100-297, title V, §5120, Apr. 28, 1988, 102 Stat. 384, related to school boundaries, prior to the general amendment of this chapter by Pub. L. 103-382.

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.

§ 2005. Facilities construction

(a) National survey of facilities conditions

(1) In general

Not later than 12 months after January 8, 2002, the Government Accountability Office shall compile, collect, and secure the data that are needed to prepare a national survey of the physical conditions of all Bureau-funded school facilities.

(2) Data and methodologies

In preparing the national survey required under paragraph (1), the Government Accountability Office shall use the following data and methodologies:

(A) The existing Department of Defense formula for determining the condition and adequacy of Department of Defense facilities.

(B) Data related to conditions of Bureau-funded schools that has previously been compiled, collected, or secured from whatever source derived so long as the data are accurate, relevant, timely, and necessary to the survey.

(C) The methodologies of the American Institute of Architects, or other accredited and reputable architecture or engineering associations.

(3) Consultations

(A) In general

In carrying out the survey required under paragraph (1), the Government Accountability Office shall, to the maximum extent practicable, consult (and if necessary contract) with national, regional, and tribal Indian education organizations to ensure that a complete and accurate national survey is achieved.

(B) Requests for information

All Bureau-funded schools shall comply with reasonable requests for information by the Government Accountability Office and shall respond to such requests in a timely fashion.

(4) Submission

Not later than 2 years after January 8, 2002, the Government Accountability Office shall

submit the results of the national survey conducted under paragraph (1) to the Committee on Indian Affairs, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate and the Committee on Resources, the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives and to the Secretary. The Secretary shall submit the results of the national survey to school boards of Bureau-funded schools and their respective tribes.

(5) Negotiated rulemaking committee

(A) In general

Not later than 6 months after the date on which the submission is made under paragraph (4), the Secretary shall establish a negotiated rulemaking committee pursuant to section 2018(b)(3) of this title. The negotiated rulemaking committee shall prepare and submit to the Secretary the following:

(i) A catalog of the condition of school facilities at all Bureau-funded schools that—

(I) incorporates the findings from the Government Accountability Office study evaluating and comparing school systems of the Department of Defense and the Bureau of Indian Affairs;

(II) rates such facilities with respect to the rate of deterioration and useful life of structures and major systems;

(III) establishes a routine maintenance schedule for each facility;

(IV) identifies the complementary educational facilities that do not exist but that are needed; and

(V) makes projections on the amount of funds needed to keep each school viable, consistent with the accreditation standards required pursuant to this Act.

(ii) A school replacement and new construction report that determines replacement and new construction need, and a formula for the equitable distribution of funds to address such need, for Bureau-funded schools. Such formula shall utilize necessary factors in determining an equitable distribution of funds, including—

(I) the size of school;

(II) school enrollment;

(III) the age of the school;

(IV) the condition of the school;

(V) environmental factors at the school; and

(VI) school isolation.

(iii) A renovation repairs report that determines renovation need (major and minor), and a formula for the equitable distribution of funds to address such need, for Bureau-funded schools. Such report shall identify needed repairs or renovations with respect to a facility, or a part of a facility, or the grounds of the facility, to remedy a need based on disabilities access or health and safety changes to a facility. The formula developed shall utilize necessary factors in determining an equitable distribution of funds, including the factors described in clause (i).