

Another prior section 2017, Pub. L. 95-561, title XI, §1137, Nov. 1, 1978, 92 Stat. 2327, related to constitutional and civil rights of Indian children attending Bureau schools, 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.

### § 2018. Regional meetings and negotiated rule-making

#### (a) Regional meetings

Prior to publishing any proposed regulations under subsection (b)(1), and prior to establishing the negotiated rulemaking committee under subsection (b)(3), the Secretary shall convene regional meetings to consult with personnel of the Office of Indian Education Programs, educators at Bureau schools, and tribal officials, parents, teachers, administrators, and school board members of tribes served by Bureau-funded schools to provide guidance to the Secretary on the content of regulations authorized to be promulgated under this chapter and the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

#### (b) Negotiated rulemaking

##### (1) In general

Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary shall promulgate regulations authorized under subsection (a) and under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.], in accordance with the negotiated rulemaking procedures provided for under subchapter III of chapter 5 of title 5, and shall publish final regulations in the Federal Register.

##### (2) Notification to Congress

If draft regulations implementing this chapter and the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] are not promulgated in final form within 18 months after January 8, 2002, the Secretary shall notify the appropriate committees of Congress of which draft regulations were not promulgated in final form by the deadline and the reason such final regulations were not promulgated.

##### (3) Rulemaking committee

The Secretary shall establish a negotiated rulemaking committee to carry out this subsection. In establishing such committee, the Secretary shall—

(A) apply the procedures provided for under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between Indian tribes and the United States;

(B) ensure that the membership of the committee includes only representatives of the Federal Government and of tribes served by Bureau-funded schools;

(C) select the tribal representatives of the committee from among individuals nominated by the representatives of the tribal and tribally operated schools;

(D) ensure, to the maximum extent possible, that the tribal representative member-

ship on the committee reflects the proportionate share of students from tribes served by the Bureau-funded school system; and

(E) comply with the Federal Advisory Committee Act (5 U.S.C. App.).

#### (4) Special rule

The Secretary shall carry out this section using the general administrative funds of the Department of the Interior. In accordance with subchapter III of chapter 5 of title 5 and section 7(d) of the Federal Advisory Committee Act, payment of costs associated with negotiated rulemaking shall include the reasonable expenses of committee members.

#### (c) Application of section

##### (1) Supremacy of provisions

The provisions of this section shall supersede any conflicting regulations in effect on the day before the date of enactment of this chapter, and the Secretary may repeal any regulation that is inconsistent with the provisions of this chapter.

##### (2) Modifications

The Secretary may modify regulations promulgated under this section or the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.], only in accordance with this section.

(Pub. L. 95-561, title XI, §1138, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2057.)

#### REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in subsecs. (a), (b)(1), (2), and (c)(2), is part B (§5201-5212) of title V of Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b)(3)(E), (4), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of this chapter, referred to in subsec. (c)(1), probably means the date of enactment of Pub. L. 107-110, which amended this chapter generally and was approved Jan. 8, 2002.

#### PRIOR PROVISIONS

A prior section 2018, Pub. L. 95-561, title XI, §1138, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4011, related to rights of Indian students, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2016 of this title.

Another prior section 2018, Pub. L. 95-561, title XI, §1138, Nov. 1, 1978, 92 Stat. 2327; Pub. L. 98-511, title V, §510, Oct. 19, 1984, 98 Stat. 2397, related to regulations implementing administrative provisions, 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.

### § 2019. Early childhood development program

#### (a) In general

The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

**(b) Amount of grants****(1) In general**

The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (g) for such fiscal year (less amounts provided under subsection (f)) as—

(A) the total number of children under 6 years of age who are members of—

- (i) such tribe;
- (ii) the tribe that authorized such tribal organization; or
- (iii) any tribe that—
  - (I) is a member of such consortium; or
  - (II) authorizes any tribal organization that is a member of such consortium; bears to

(B) the total number of all children under 6 years of age who are members of any tribe that—

- (i) is eligible to receive funds under subsection (a);
- (ii) is a member of a consortium that is eligible to receive such funds; or
- (iii) authorizes a tribal organization that is eligible to receive such funds.

**(2) Limitation**

No grant may be provided under subsection (a)—

(A) to any tribe that has less than 500 members;

(B) to any tribal organization which is authorized—

- (i) by only one tribe that has less than 500 members; or
- (ii) by one or more tribes that have a combined total membership of less than 500 members; or

(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

**(c) Application****(1) In general**

A grant may be provided under subsection (a) to a tribe, tribal organization, or consortium of tribes and tribal organizations only if the tribe, organization, or consortium submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

**(2) Contents**

Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

**(d) Requirement of programs funded**

The early childhood development programs that are funded by grants provided under subsection (a)—

(1) shall coordinate existing programs and may provide services that meet identified

needs of parents and children under 6 years of age which are not being met by existing programs, including—

- (A) prenatal care;
- (B) nutrition education;
- (C) health education and screening;
- (D) family literacy services;
- (E) educational testing; and
- (F) other educational services;

(2) may include instruction in the language, art, and culture of the tribe; and

(3) shall provide for periodic assessment of the program.

**(e) Coordination of family literacy programs**

Family literacy programs operated under this section and other family literacy programs operated by the Bureau of Indian Affairs shall be coordinated with family literacy programs for Indian children under subpart 2 of part B of title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6641 et seq.] in order to avoid duplication and to encourage the dissemination of information on quality family literacy programs serving Indians.

**(f) Administrative costs**

The Secretary shall, out of funds appropriated under subsection (g), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe, tribal organization, or consortium of tribes in establishing and maintaining the early childhood development program.

**(g) Authorization of appropriations**

There are authorized to be appropriated to carry out this section such sums as may be necessary.

(Pub. L. 95-561, title XI, §1139, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2058; amended Pub. L. 114-95, title IX, §9215(cc)(1), Dec. 10, 2015, 129 Stat. 2173.)

## REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (e), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Subpart 2 of part B of title II of the Act is classified generally to subpart 2 (§6641 et seq.) of part B of subchapter II of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

## PRIOR PROVISIONS

A prior section 2019, Pub. L. 95-561, title XI, §1139, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4011, related to promulgation of regulations, prior to repeal by Pub. L. 105-362, title VIII, §801(c)(5), Nov. 10, 1998, 112 Stat. 3288. See section 2017 of this title.

Another prior section 2019, Pub. L. 95-561, title XI, §1139, Nov. 1, 1978, 92 Stat. 2328; Pub. L. 100-297, title V, §5117, Apr. 28, 1988, 102 Stat. 382; Pub. L. 100-427, §1(c)(1), (2), Sept. 9, 1988, 102 Stat. 1603; Pub. L. 101-301, §5(a), May 24, 1990, 104 Stat. 207, defined terms used in this chapter, prior to the general amendment of this chapter by Pub. L. 103-382.

## AMENDMENTS

2015—Subsec. (e). Pub. L. 114-95 substituted “subpart 2 of part B of title II of the Elementary and Secondary Education Act of 1965” for “part B of title I of the Elementary and Secondary Education Act of 1965”.

## EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive pro-

grams and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

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.

**§ 2020. Tribal departments or divisions of education**

**(a) In general**

Subject to the availability of appropriations, the Secretary shall make grants and provide technical assistance to tribes for the development and operation of tribal departments or divisions of education for the purpose of planning and coordinating all educational programs of the tribe.

**(b) Applications**

For a tribe to be eligible to receive a grant under this section, the governing body of the tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

**(c) Diversity**

The Secretary shall award grants under this section in a manner that fosters geographic and population diversity.

**(d) Use**

Tribes that receive grants under this section shall use the funds made available through the grants—

(1) to facilitate tribal control in all matters relating to the education of Indian children on reservations (and on former Indian reservations in Oklahoma);

(2) to provide for the development of coordinated educational programs (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) on reservations (and on former Indian reservations in Oklahoma) by encouraging tribal administrative support of all Bureau-funded educational programs as well as encouraging tribal cooperation and coordination with entities carrying out all educational programs receiving financial support from other Federal agencies, State agencies, or private entities; and

(3) to provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs.

**(e) Priorities**

In making grants under this section, the Secretary shall give priority to any application that—

(1) includes—

(A) assurances that the applicant serves three or more separate Bureau-funded schools; and

(B) assurances from the applicant that the tribal department of education to be funded under this section will provide coordinating

services and technical assistance to all of such schools;

(2) includes assurances that all education programs for which funds are provided by such a contract or grant will be monitored and audited, by or through the tribal department of education, to ensure that the programs meet the requirements of law; and

(3) provides a plan and schedule that—

(A) provides for—

(i) the assumption, by the tribal department of education, of all assets and functions of the Bureau agency office associated with the tribe, to the extent the assets and functions relate to education; and

(ii) the termination by the Bureau of such functions and office at the time of such assumption; and

(B) provides that the assumption shall occur over the term of the grant made under this section, except that, when mutually agreeable to the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

**(f) Time period of grant**

Subject to the availability of appropriated funds, a grant provided under this section shall be provided for a period of 3 years. If the performance of the grant recipient is satisfactory to the Secretary, the grant may be renewed for additional 3-year terms.

**(g) Terms, conditions, or requirements**

A tribe that receives a grant under this section shall comply with regulations relating to grants made under section 5322(a) of this title that are in effect on the date that the tribal governing body submits the application for the grant under subsection (b). The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

**(h) Authorization of appropriations**

There are authorized to be appropriated to carry out this section \$2,000,000.

(Pub. L. 95-561, title XI, § 1140, as added Pub. L. 107-110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2059.)

PRIOR PROVISIONS

A prior section 2020, Pub. L. 95-561, title XI, § 1140, as added Pub. L. 103-382, title III, § 381, Oct. 20, 1994, 108 Stat. 4011, related to voluntary services, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2020, Pub. L. 95-561, title XI, § 1140, as added Pub. L. 98-511, title V, § 511, Oct. 19, 1984, 98 Stat. 2397; amended Pub. L. 99-89, § 8, Aug. 15, 1985, 99 Stat. 383, related to voluntary services, 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.

**§ 2021. Definitions**

For the purposes of this chapter, unless otherwise specified: