

costs and length of contract, shall apply to grants provided under this subchapter.

(d) Regulations

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this subchapter. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this subchapter, the Secretary shall not issue regulations. Regulations issued pursuant to this subchapter shall not have the standing of a Federal statute for the purposes of judicial review.

(e) Retrocession

Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this subchapter, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this subchapter prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act [25 U.S.C. 5321 et seq.] or to a Bureau administered program.

(f) Definitions

For the purposes of this subchapter:

(1) The term “Secretary” means the Secretary of the Interior.

(2) The terms “Indian” and “Indian tribe” have the same meaning given those terms in sections² 4(d) and (e), respectively, of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5304(d), (e)].

(Pub. L. 102-325, title XIII, §1317, July 23, 1992, 106 Stat. 802.)

REFERENCES IN TEXT

Sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), referred to in subsec. (c), are sections 5, 6, 7, 105, 109, and 110 of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which were classified to sections 450c, 450d, 450e, 450j, 450m, and 450m-1, respectively, of this title prior to editorial reclassification as sections 5305, 5306, 5307, 5324, 5330, and 5331, respectively, of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Indian Self-Determination Act, referred to in subsec. (e), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to subchapter I (§5321 et seq.) of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Subsec. (a) of this section, which required the Secretary to submit a biennial report to Congress on programs established under this subchapter, terminated,

²So in original. Probably should be “section”.

effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 79 of House Document No. 103-7.

SUBCHAPTER II—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT

§ 3321. Short title

This subchapter may be cited as the “Critical Needs for Tribal Development Act”.

(Pub. L. 102-325, title XIII, §1321, July 23, 1992, 106 Stat. 803.)

§ 3322. Definitions

As used in this subchapter:

(1) The term “federally funded higher education assistance” means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of section 13 of this title.

(2) The term “eligible Indian tribe or tribal organization” means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] or under a grant pursuant to subchapter I of this chapter.

(3) The term “Indian” has the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5304(d)].

(Pub. L. 102-325, title XIII, §1322, July 23, 1992, 106 Stat. 803.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (2), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

§ 3323. Service conditions permitted

(a) In general

An eligible Indian tribe or tribal organization may, in accordance with the requirements of this subchapter, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 3324 of this title.

(b) Critical area designation

Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn

by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

(Pub. L. 102-325, title XIII, §1323, July 23, 1992, 106 Stat. 803.)

§ 3324. Critical area service agreements

(a) Terms of agreements

A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 1085(a) of title 20) in an area of critical need, as determined under section 3323 of this title, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 3323(b)¹ of this title, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) Service limitations and conditions

The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) Waiver and suspension of service agreement

(1) Waiver

An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations pre-

scribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) Suspension

The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) Pro rata reduction for partial services

The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A).

(e) Certification of service

An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this subchapter, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

(Pub. L. 102-325, title XIII, §1324, July 23, 1992, 106 Stat. 803.)

REFERENCES IN TEXT

Section 3323(b) of this title, referred to in subsec. (a)(2)(A), was in the original a reference to "section 1322(b)", meaning section 1322(b) of Pub. L. 102-325, which has been translated as reading section 1323(b) of Pub. L. 102-325 to reflect the probable intent of Congress because section 1322 does not have a subsec. (b) and section 1323(b) relates to designation of critical areas by tribes.

§ 3325. General provisions

(a) Application of existing procedures

Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] for tribal operation of

¹ See References in Text note below.