

(d) Placement of non-Indian employees in other Federal positions; assistance of Office of Personnel Management; cooperation of other Federal agencies

The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian Affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible in such placement efforts.

(e) Definitions

For purposes of this section—

(1) The term “tribal organization” means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 1602(c) of title 43); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term “Indian preference laws” means section 5116 of this title or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term “Bureau of Indian Affairs” means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

(Pub. L. 96-135, § 2, Dec. 5, 1979, 93 Stat. 1057; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100-581, title II, § 205, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101-509, title V, § 529 [title I, § 112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 105-362, title VIII, § 801(e), title XIII, § 1302(d), Nov. 10, 1998, 112 Stat. 3288, 3294.)

REFERENCES IN TEXT

Section 2011(f) of this title, referred to in subsec. (c)(2), was in the original a reference to section 1131 of the Education Amendments of 1978, Pub. L. 95-561, meaning section 1131 of Pub. L. 95-561 prior to the general amendments of chapter 22 (§2000 et seq.) of this title by Pub. L. 103-382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979, and Pub. L. 107-110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. As added by Pub. L. 107-110, section 1131 of Pub. L. 95-561 relates to policy for Indian control of Indian education and is classified to section 2011 of this title. Provisions relating to waivers of education personnel actions are now contained in section 2012(f) of this title.

CODIFICATION

Section was formerly classified to section 472a of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-362, § 801(e)(3), struck out par. (1) designation and struck out par. (2) which

read as follows: “The Secretaries of the Interior and Health and Human Services, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.”

Pub. L. 105-362, § 801(e)(1), (2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “The Secretaries of the Interior and Health and Human Services shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.”

Subsec. (e). Pub. L. 105-362, § 1302(d), which directed the amendment of subsec. (e) by striking out par. (1) designation after “(e)” and striking out par. (2), could not be executed because par. (1) designation did not immediately follow “(e)” subsequent to amendment by Pub. L. 105-362, § 801(e)(2). See above.

Pub. L. 105-362, § 801(e)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105-362, § 801(e)(2), redesignated subsec. (f) as (e).

1990—Subsec. (b)(2). Pub. L. 101-509 substituted “a Deputy Secretary” for “an Under Secretary” before “or Assistant Secretary”.

1988—Subsec. (c)(1). Pub. L. 100-581 substituted “an applicant or employee” for “an employee”.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (b)(2) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of the Interior, see section 529 [title I, § 112(e)(1), (2)(B)] of Pub. L. 101-509, set out as a note under section 3404 of Title 20, Education.

§ 5118. Application generally

The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16 [25 U.S.C. 5112, 5113, 5115, 5116, 5123] shall apply to the Territory of Alaska: *Provided*, That sections 4, 7, 16, 17, and 18 of this Act [25 U.S.C. 5107, 5110, 5123, 5124, 5125] shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomie, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act [25 U.S.C. 5107] shall not apply to the Indians of the Klamath Reservation in Oregon.

(June 18, 1934, ch. 576, § 13, 48 Stat. 986; Pub. L. 101-301, § 3(b), May 24, 1990, 104 Stat. 207.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 473 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1990—Pub. L. 101-301 substituted “sections 4,” for “sections 2, 4,” in proviso.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 5119. Application to Alaska

Sections 5101, 5108, 5110, 5111, 5121, 5124, and 5129 of this title shall after May 1, 1936, apply to the Territory of Alaska: *Provided*, That groups of Indians in Alaska not recognized prior to May 1, 1936, as bands or tribes, but having a common bond of occupation, or association, or residence within a well-defined neighborhood, community, or rural district, may organize to adopt constitutions and bylaws and to receive charters of incorporation and Federal loans under sections 5113, 5123, and 5124 of this title.

(May 1, 1936, ch. 254, § 1, 49 Stat. 1250.)

CODIFICATION

Section was formerly classified to section 362 of Title 48, Territories and Insular Possessions, prior to transfer to section 473a of this title and editorial reclassification and renumbering as this section.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 5120. Continuation of allowances

The Secretary of the Interior is directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat. L. 894), or their commuted cash value under the Act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat. L. 451), or under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime

of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment on June 18, 1934, would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

(June 18, 1934, ch. 576, § 14, 48 Stat. 987.)

REFERENCES IN TEXT

Section 17 of the Act of March 2, 1889, referred to in text, probably means section 17 of act Mar. 2, 1889, ch. 405, 25 Stat. 894, which is not classified to the Code.

Act of June 10, 1896, referred to in text, is act June 10, 1896, ch. 398, 29 Stat. 334, which is not classified to the Code.

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

Section 19 of the Act of May 29, 1908, referred to in text, probably means section 19 of act May 29, 1908, ch. 216, 35 Stat. 451, which is not classified to the Code.

CODIFICATION

Section was formerly classified to section 474 of this title prior to editorial reclassification and renumbering as this section.

§ 5121. Claims or suits of Indian tribes against United States; rights unimpaired

Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by said sections shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

(June 18, 1934, ch. 576, § 15, 48 Stat. 987.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 18, 1934, ch. 576, 48 Stat. 984, popularly known as the Indian Reorganization Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section was formerly classified to section 475 of this title prior to editorial reclassification and renumbering as this section.

§ 5122. Offsets of gratuities

In all suits now pending in the United States Court of Federal Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the United States Court of Federal Claims by any such tribe or band, the United States Court of Federal Claims is directed to consider and to offset against any amount found due the said tribe or band all sums expended gratuitously by the United States for the benefit of the said tribe or band; and in all cases now pending or hereafter filed in the United States Court of Federal Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is mere-