

(2) not more than 5 per centum of the funds appropriated to carry out section 1807 of this title for such fiscal year.

(Pub. L. 95-471, title I, §106, formerly §105, Oct. 17, 1978, 92 Stat. 1326; renumbered §106 and amended Pub. L. 98-192, §§4(a)(1), (b)(1), 6(a), Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 105-244, title IX, §901(b)(5), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-244 substituted “college or university” for “community college”.

1983—Subsec. (a). Pub. L. 98-192, §6(a)(2), (3), substituted “eligibility” for “feasibility” and “Secretary of Education” for “Assistant Secretary of Education of the Department of Health, Education, and Welfare”.

Subsec. (b). Pub. L. 98-192, §6(a)(2), (4), inserted provision that such positive determination be effective for fiscal year succeeding fiscal year in which such determination is made, and substituted “eligibility” for “feasibility”.

Subsec. (c)(2). Pub. L. 98-192, §§4(b)(1), 6(a)(5), substituted “5 per centum” for “10 per centum” and made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

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.

§ 1807. Grants to tribally controlled colleges or universities

(a) Submission of applications; necessity of eligibility study

Grants shall be made under this subchapter only in response to applications by tribally controlled colleges or universities. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of record-keeping procedures for the expenditure of funds received under this chapter which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a¹ eligibility study has been conducted under section 1806 of this title and it has been found that the applying college or university will service a reasonable student population.

(b) Determination of support; factors considered

The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled college or university. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority and number of grants

Priority in grants shall be given to institutions which are operating on October 17, 1978, and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

¹ So in original. Probably should be “an”.

(d) Consultation with national Indian organizations and tribal governments

In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(Pub. L. 95-471, title I, §107, formerly §106, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97-375, title I, §108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered §107 and amended Pub. L. 98-192, §§3(b), 4(a)(1), (b)(2), 6(b), Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 105-244, title IX, §901(b)(4)-(6), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Pub. L. 105-244, §901(b)(4), substituted “colleges or universities” for “community colleges” in section catchline.

Subsec. (a). Pub. L. 105-244, §901(b)(5), (6), substituted “colleges or universities” for “community colleges” and “college or university” for “community college”.

Subsec. (b). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college”.

1983—Subsec. (a). Pub. L. 98-192, §6(b)(1), substituted “eligibility” for “feasibility”.

Pub. L. 98-192, §4(b)(2), made a technical amendment to reference to section 1806 of this title to reflect renumbering of that section.

Pub. L. 98-192, §3(b), inserted provision that such application include a description of the recordkeeping procedures for expenditure of funds as will allow Secretary to audit and monitor programs conducted with such funds.

Subsec. (b). Pub. L. 98-192, §6(b)(2), substituted “Secretary of Education” for “Assistant Secretary of Education of the Department of Health, Education, and Welfare”.

1982—Subsec. (e). Pub. L. 97-375 struck out subsec. (e) which directed the Secretary to report to Congress on Jan. 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

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.

§ 1808. Amount of grants

(a) Requirement

(1) In general

Except as provided in paragraph (2) and section 1811 of this title, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled college or university having an application approved by the Secretary an amount equal to the product obtained by multiplying—

(A) the Indian student count at such college or university during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 1801(a)(8) of this title; and

(B) \$8,000, as adjusted annually for inflation.

(2) Exception

The amount of a grant under paragraph (1) shall not exceed an amount equal to the total cost of the education program provided by the

applicable tribally controlled college or university.

(b) Advance installment payments; adjustments; methods of payment; interest or investment income; types of investments

(1) The Secretary shall make payments, pursuant to grants under this chapter, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this subchapter, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this subchapter.

(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this subchapter after such funds are paid to the tribally controlled college or university and before such funds are expended for the purpose for which such funds were provided under this subchapter shall be the property of the tribally controlled college or university and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled college or university under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled college or university by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(4) Funds provided under this subchapter may only be invested by the tribally controlled college or university in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(c) Accounting by recipient institutions; data collection system

(1) Each institution receiving payments under this subchapter shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled colleges or universities.

(d) Construction of section

Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98-192.

(Pub. L. 95-471, title I, §108, formerly §107, Oct. 17, 1978, 92 Stat. 1327; Pub. L. 97-375, title I, §108(c), Dec. 21, 1982, 96 Stat. 1820; renumbered

§108 and amended Pub. L. 98-192, §§4(a)(1), 7, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99-428, §4, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100-297, title V, §5402(a), Apr. 28, 1988, 102 Stat. 415; Pub. L. 100-427, §24, Sept. 9, 1988, 102 Stat. 1613; Pub. L. 101-477, §1(a), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 105-244, title IX, §901(a)(1), (b)(5)-(7), Oct. 7, 1998, 112 Stat. 1827, 1828; Pub. L. 110-315, title IX, §941(f), Aug. 14, 2008, 122 Stat. 3462.)

REFERENCES IN TEXT

Public Law 98-192, referred to in subsec. (d), is Pub. L. 98-192, Dec. 1, 1983, 97 Stat. 1335, which enacted sections 1804a and 1831 to 1836 of this title, amended former section 640c-1 and sections 1801 to 1803 and 1805 to 1813 of this title, and enacted provisions set out as a note under section 1815 of this title. For complete classification of Pub. L. 98-192 to the Code, see Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315 inserted subsec. (a) and par. (1) headings, designated introductory provisions and pars. (1) and (2) as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), in introductory provisions, substituted “Except as provided in paragraph (2) and section 1811 of this title,” for “Except as provided in section 1811 of this title,” “approved by the Secretary” for “approved by him”, and “product obtained by multiplying” for “product of”, in subpar. (A), substituted “section 1801(a)(8) of this title” for “section 1801(a)(7) of this title”, in subpar. (B), substituted “\$8,000, as adjusted annually for inflation.” for “\$6,000.”, added par. (2), and struck out former concluding provisions which read as follows: “except that no grant shall exceed the total cost of the education program provided by such college or university.”

1998—Subsec. (a). Pub. L. 105-244, §901(a)(1), (b)(5), (7), substituted “controlled college or university” for “controlled community college” in introductory provisions, “such college or university” for “such college” in par. (1) and concluding provisions, and “\$6,000” for “\$5,820” in par. (2).

Subsec. (b)(3), (4). Pub. L. 105-244, §901(b)(5), substituted “college or university” for “community college” wherever appearing.

Subsec. (c)(2). Pub. L. 105-244, §901(b)(6), substituted “colleges or universities” for “community colleges”.

1990—Subsec. (a)(1). Pub. L. 101-477, §1(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 1801(a)(7) of this title; and”.

Subsec. (b)(1). Pub. L. 101-477, §1(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary shall make payments, pursuant to grants under this subchapter, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.”

Subsecs. (c), (d). Pub. L. 101-477, §1(a)(3), redesignated subsec. (c), relating to construction of section, as (d).

1988—Subsec. (b). Pub. L. 100-297 designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (c). Pub. L. 100-427 added subsec. (c) relating to construction of section.

1986—Subsec. (a)(2). Pub. L. 99-428 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) \$4,000 for fiscal year 1984,

“(B) \$5,025 for fiscal year 1985,

“(C) \$5,415 for fiscal year 1986, and

“(D) \$5,820 for fiscal year 1987.”

1983—Subsec. (a). Pub. L. 98-192 amended subsec. (a) generally, substituting provision establishing a formula premised on Indian student count at each tribally controlled community college on which funding is to be based for provision which directing the Secretary to grant an amount equal to \$4,000 for each full-time equivalent Indian student in attendance during the academic year to each tribally controlled community college having an application approved by the Secretary.

1982—Subsec. (c)(2). Pub. L. 97-375 struck out provision directing Secretary to report annually to Congress on needs of tribally controlled 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.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100-297, see section 6303 of Pub. L. 100-297, set out as a note under section 1071 of Title 20, Education.

§ 1809. Effect on other programs

(a) Eligibility for assistance

Except as specifically provided in this subchapter, eligibility for assistance under this subchapter shall not, by itself, preclude the eligibility of any tribally controlled college or university to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b) Allocations from Bureau of Indian Affairs

(1) The amount of any grant for which tribally controlled colleges or universities are eligible under section 1808 of this title shall not be altered because of funds allocated to any such colleges or universities from funds appropriated under section 13 of this title.

(2) No tribally controlled college or university shall be denied funds appropriated under section 13 of this title because of the funds it receives under this chapter.

(3) No tribally controlled college or university for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of this title may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(c)² Assistance deemed to be basic educational opportunity grant

For the purposes of sections 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965 [20 U.S.C. 1058(2)(A)(i), 1061(a)(2)(A)(i)],³ any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for post-

secondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act [20 U.S.C. 1070a et seq.].

(c)² Treatment of funds under certain Federal laws

Notwithstanding any other provision of law, funds provided under this subchapter to the tribally controlled college or university may be treated as non-Federal, private funds of the college or university for purposes of any provision of Federal law which requires that non-Federal or private funds of the college or university be used in a project or for a specific purpose.

(Pub. L. 95-471, title I, § 109, formerly § 108, Oct. 17, 1978, 92 Stat. 1328; renumbered § 109 and amended Pub. L. 98-192, §§ 4(a)(1), 8, Dec. 1, 1983, 97 Stat. 1336, 1337; Pub. L. 99-428, § 5, Sept. 30, 1986, 100 Stat. 983; Pub. L. 100-297, title V, § 5403(a), Apr. 28, 1988, 102 Stat. 416; Pub. L. 105-244, title IX, § 901(b)(5), (6), (8), (10), (12), (e), Oct. 7, 1998, 112 Stat. 1828, 1829.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (a) and (c), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Sections 312 and 322 of the Act, which were classified to sections 1058 and 1061, respectively, of Title 20, were omitted in the general revision of title III of the Higher Education Act of 1965 by Pub. L. 99-498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1290, which enacted new sections 312 and 322 which are classified to sections 1058 and 1061, respectively, of Title 20. Subpart 1 of part A of title IV of the Higher Education Act of 1965 is classified generally to subpart 1 (§ 1070a et seq.) of part A of subchapter IV of chapter 28 of Title 20. For complete classification of the Higher Education Act of 1965 to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (b)(3), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title prior to editorial reclassification as 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.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, § 901(b)(10), inserted “or university” after “tribally controlled college”.

Subsec. (b)(1). Pub. L. 105-244, § 901(b)(6), (8), substituted “controlled colleges or universities” for “controlled community colleges” and “such colleges or universities” for “such colleges”.

Subsec. (b)(2), (3). Pub. L. 105-244, § 901(b)(5), substituted “college or university” for “community college”.

Subsec. (c). Pub. L. 105-244, § 901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Subsec. (d). Pub. L. 105-244, § 901(e), redesignated subsec. (d), relating to treatment of funds under certain Federal laws, as (c).

Pub. L. 105-244, § 901(b)(5), (12), substituted “controlled college or university” for “controlled community college” and substituted “the college or university” for “the college” in two places.

1988—Subsec. (d). Pub. L. 100-297 added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99-428 added par. (3).

1983—Pub. L. 98-192, § 8, designated existing provision as subsec. (a) and added subsecs. (b) and (c).

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 sec-

¹ See References in Text note below.

² So in original. Two subsecs. (c) have been enacted.

³ See References in Text note below.