

financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this subchapter relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] and in effect on January 20, 1991.

### (3) Procedures for revocation of eligibility

The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this subchapter except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.].

(Pub. L. 102-325, title XIII, §1314, July 23, 1992, 106 Stat. 799.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, 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.

### § 3305. Allocation of grant funds

#### (a) Allocation of funds

##### (1) In general

The Secretary shall continue to determine the amount of program funds to be received by each grantee under this subchapter by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray post-secondary expenses.

##### (2) Administrative costs

In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 3304(a) of this title to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Edu-

cation Assistance Act [25 U.S.C. 5301 et seq.], as in effect at the time of application to grants being made.

### (3) Single grant; separate accounts

Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

#### (b) Use of funds

Funds provided by grants under this subchapter shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a post-secondary education program (as determined under the contracts applying to the post-secondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 5301 et seq.]), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this subchapter, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in subsection (a)(2).

(Pub. L. 102-325, title XIII, §1315, July 23, 1992, 106 Stat. 800.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (b)(1), 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.

### § 3306. Limitations on use of funds

#### (a) Use for religious purposes

None of the funds made available under this subchapter may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

#### (b) Interest on funds

No interest or other income on any funds made available under this subchapter shall be used for any purpose other than those for which such funds may be used.

#### (c) Payments

##### (1) In general

Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this subchapter in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this subchapter apply, and

(B) the second payment consisting of the remainder to which the grantee or contrac-

tor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

**(2) New grantees**

For any tribe for which no payment was made under this subchapter in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

**(d) Investment of funds**

**(1) Treatment as tribal property**

Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this subchapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this subchapter shall be the property of the Indian tribe or tribal organization 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, under any provision of Federal law.

**(2) Investment requirements**

Funds provided under this subchapter may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

**(e) Recoveries**

For the purposes of under recovery and over recovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this subchapter shall not be taken into consideration.

(Pub. L. 102-325, title XIII, §1316, July 23, 1992, 106 Stat. 801.)

**§ 3307. Administrative provisions**

**(a) Omitted**

**(b) Role of Director**

Applications for grants under this subchapter, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

**(c) Application of Indian Self-Determination and Education Assistance Act**

All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.),<sup>1</sup> except those provisions pertaining to indirect

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 sections<sup>2</sup> 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,

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be “section”.