

tion 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

### § 1806. Eligibility studies

#### (a) Development of plans, procedures, and criteria

The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

#### (b) Initiation by Secretary; grant applications and budgets

The Secretary, within thirty days after a request by any Indian tribe, shall initiate a<sup>1</sup> eligibility study to determine whether there is justification to encourage and maintain a tribally controlled college or university, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

#### (c) Source of appropriations

Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

- (1) general administrative appropriations to the Secretary made after October 17, 1978 for such fiscal year; or
- (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.)

### Editorial Notes

#### 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.

### Statutory Notes and Related Subsidiaries

#### 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.

<sup>1</sup> So in original. Probably should be “an”.

### § 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 a<sup>1</sup> 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.

#### (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.)

### Editorial Notes

#### 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.

<sup>1</sup> So in original. Probably should be “an”.

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.

#### Statutory Notes and Related Subsidiaries

##### 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.)

#### Editorial Notes

##### 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 sec-