

(B) Administrative activities

The provisions of subparagraph (A) shall apply with respect to administrative personnel if the facilities involved are suitable for activities performed by such personnel.

(C) Temporary

In this paragraph, the term “temporary” means—

(i) with respect to a school that is to be closed for not more than 1 year, 3 months or less; and

(ii) with respect to a school that is to be closed for not less than 1 year, a time period determined appropriate by the Bureau.

(3) Treatment of closure

Any closure of a Bureau-funded school under this subsection for a period that exceeds 30 days but is less than 1 year, shall be treated by the Bureau as an emergency facility improvement and repair project.

(4) Use of funds

With respect to a Bureau-funded school that is closed under this subsection, the tribal governing body, or the designated local school board of each Bureau-funded school, involved may authorize the use of funds allocated pursuant to section 2007 of this title, to abate the hazardous conditions without further action by Congress.

(f) Funding requirement**(1) Distribution of funds**

Beginning with the first fiscal year following January 8, 2002, all funds appropriated to the budget accounts for the operations and maintenance of Bureau-funded schools shall be distributed by formula to the schools. No funds from these accounts may be retained or segregated by the Bureau to pay for administrative or other costs of any facilities branch or office, at any level of the Bureau.

(2) Requirements for certain uses

No funds shall be withheld from the distribution to the budget of any school operated under contract or grant by the Bureau for maintenance or any other facilities or road-related purpose, unless such school has consented, as a modification to the contract or in writing for grants schools, to the withholding of such funds, including the amount thereof, the purpose for which the funds will be used, and the timeline for the services to be provided. The school may, at the end of any fiscal year, cancel an agreement under this paragraph upon giving the Bureau 30 days notice of its intent to do so.

(g) No reduction in Federal funding

Nothing in this section shall diminish any Federal funding due to the receipt by the school of funding for facilities improvement or construction from a State or any other source.

(Pub. L. 95-561, title XI, §1125, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2021; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(5)(A)(i)(V), means Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended, known as the Education Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(1)(C), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 2005, Pub. L. 95-561, title XI, §1125, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3986, related to facilities construction, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2005, Pub. L. 95-561, title XI, §1125, Nov. 1, 1978, 92 Stat. 2319; Pub. L. 100-297, title V, §5103, Apr. 28, 1988, 102 Stat. 364, related to facilities construction, prior to the general amendment of this chapter by Pub. L. 103-382.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” wherever appearing.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Education and the Workforce of House of Representatives changed to Committee on Education and Labor of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as a note under section 6301 of Title 20, Education.

USE OF TRIBAL PRIORITY ALLOCATIONS FUNDS FOR SCHOOL FACILITIES

Pub. L. 105-277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-246, provided in part: “That hereafter tribes may use tribal priority allocations funds for the replacement and repair of school facilities in compliance with [former] 25 U.S.C. 2005(a) [see now 25 U.S.C. 2005(b)], so long as such replacement or repair is approved by the Secretary and completed with non-Federal tribal and/or tribal priority allocation funds”.

§ 2006. Bureau of Indian Affairs education functions**(a) Formulation and establishment of policy and procedure; supervision of programs and expenditures**

The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such

functions through the Director of the Office of Indian Education Programs.

(b) Direction and supervision of personnel operations

(1) In general

Not later than 180 days after January 8, 2002, the Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved in the provision of education program services by the Bureau, including school or institution custodial or maintenance personnel, and personnel responsible for contracting, procurement, and finance functions connected with school operation programs.

(2) Transfers

The Assistant Secretary for Indian Affairs shall, not later than 180 days after January 8, 2002, coordinate the transfer of functions relating to procurements for, contracts of, operation of, and maintenance of schools and other support functions to the Director.

(c) Inherent Federal function

For purposes of this Act, all functions relating to education that are located at the Area or Agency level and performed by an education line officer shall be subject to contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.], unless determined by the Secretary to be inherently Federal functions as defined in section 2021(12) of this title.

(d) Evaluation of programs; services and support functions; technical and coordinating assistance

Education personnel who are under the direction and supervision of the Director of the Office of Indian Education Programs in accordance with subsection (b)(1) shall—

- (1) monitor and evaluate Bureau education programs;
- (2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions; and
- (3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, curriculum, and operation and maintenance of school facilities.

(e) Construction, improvement, operation, and maintenance of facilities

(1) Plan for construction

The Assistant Secretary shall submit as part of the annual budget a plan—

- (A) for school facilities to be constructed under section 2005(c) of this title;
- (B) for establishing priorities among projects and for the improvement and repair of educational facilities, which together shall form the basis for the distribution of appropriated funds; and
- (C) for capital improvements to be made over the 5 succeeding years.

(2) Program for operation and maintenance

(A) Establishment

The Assistant Secretary shall establish a program, including the distribution of ap-

propriated funds, for the operation and maintenance of education facilities. Such program shall include—

- (i) a method of computing the amount necessary for each educational facility;
- (ii) similar treatment of all Bureau-funded schools;
- (iii) a notice of an allocation of appropriated funds from the Director of the Office of Indian Education Programs directly to the education line officers and appropriate school officials;
- (iv) a method for determining the need for, and priority of, facilities repair and maintenance projects, both major and minor (to be determined, through the conduct by the Assistant Secretary, of a series of meetings at the agency and area level with representatives of the Bureau-funded schools in those areas and agencies to receive comment on the lists and prioritization of such projects); and
- (v) a system for the conduct of routine preventive maintenance.

(B) Local supervisors

The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this chapter may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner.

(3) Implementation

This subsection shall be implemented as soon as practicable after January 8, 2002.

(f) Acceptance of gifts and bequests

(1) Guidelines

Notwithstanding any other provision of law, the Director of the Office shall promulgate guidelines for the establishment and administration of mechanisms for the acceptance of gifts and bequests for the use and benefit of particular schools or designated Bureau-operated education programs, including, in appropriate cases, the establishment and administration of trust funds.

(2) Monitoring and reports

Except as provided in paragraph (3), in a case in which a Bureau-operated education program is the beneficiary of such a gift or bequest, the Director shall—

- (A) make provisions for monitoring use of the gift or bequest; and
- (B) submit a report to the appropriate committees of Congress that describes the amount and terms of such gift or bequest, the manner in which such gift or bequest shall be used, and any results achieved by such use.

(3) Exception

The requirements of paragraph (2) shall not apply in the case of a gift or bequest that is valued at \$5,000 or less.

(g) Definition of functions

For the purpose of this section, the term “functions” includes powers and duties.

(Pub. L. 95-561, title XI, §1126, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2026.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsec. (c), means Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended, known as the Education Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c), 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.

PRIOR PROVISIONS

A prior section 2006, Pub. L. 95-561, title XI, §1126, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3988, related to Bureau of Indian Affairs education functions, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2006, Pub. L. 95-561, title XI, §1126, Nov. 1, 1978, 92 Stat. 2319; Pub. L. 96-46, §2(b)(6), Aug. 6, 1979, 93 Stat. 341; Pub. L. 98-511, title V, §504, Oct. 19, 1984, 98 Stat. 2393; Pub. L. 99-89, §4, Aug. 15, 1985, 99 Stat. 381; Pub. L. 100-427, §1(c)(3), Sept. 9, 1988, 102 Stat. 1603, related to Bureau of Indian Affairs education functions, prior to the general amendment of this chapter by Pub. L. 103-382.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as a note under section 6301 of Title 20, Education.

§ 2007. Allotment formula**(a) Factors considered; revision to reflect standards****(1) Formula**

The Secretary shall establish, by regulation adopted in accordance with section 2017 of this title, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau-funded school. In establishing such formula, the Secretary shall consider—

(A) the number of eligible Indian students served and total student population of the school;

(B) special cost factors, such as—

(i) the isolation of the school;

(ii) the need for special staffing, transportation, or educational programs;

(iii) food and housing costs;

(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

(v) special transportation and other costs of isolated and small schools;

(vi) the costs of home-living (dormitory) arrangements, where determined necessary by a tribal governing body or designated school board;

(vii) costs associated with greater lengths of service by education personnel;

(viii) the costs of therapeutic programs for students requiring such programs; and

(ix) special costs for gifted and talented students;

(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located;

(D) whether the available funding will enable the school involved to comply with the accreditation standards applicable to the school under section 2001 of this title; and

(E) such other relevant factors as the Secretary determines are appropriate.

(2) Revision of formula**(A) In general**

Upon the establishment of the standards required in section 2002 of this title, the Secretary shall revise the formula established under this subsection to reflect the cost of funding such standards.

(B) Review of formula

Not later than January 1, 2003, the Secretary shall review the formula established under this section and shall take such steps as are necessary to increase the availability of counseling and therapeutic programs for students in off-reservation home-living (dormitory) schools and other Bureau-operated residential facilities.

(C) Review of standards

Concurrent with such action, the Secretary shall review the standards established under section 2002 of this title to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling and therapeutic programs.

(b) Pro rata allotment

Notwithstanding any other provision of law, Federal funds appropriated for the general local operation of Bureau-funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

(c) Annual adjustment; reservation of amount for school board activities**(1) Annual adjustment**

For fiscal year 2003, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to ensure that the formula does the following:

(A) Uses a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school.

(B) Considers a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools.

(C) Takes into account the provision of residential services on less than a 9-month basis at a school when the school board and supervisor of the school determine that a