

§ 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.

(b) Direction and supervision of personnel operations

The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 2009 of this title, nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) 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 in accordance with the first sentence of subsection (b) of this section 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, and curriculum.

(d) Construction and improvement of facilities; operation and maintenance of facilities

(1) The Assistant Secretary shall submit in the annual Budget a plan—

(A) for school facilities to be constructed under the system required by section 2005(c) of this title;

(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

(C) including a 5-year plan for capital improvements.

(2)(A) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

(i) a method of computing the amount necessary for each education facility;

(ii) similar treatment of all Bureau funded schools;

(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

(iv) a system for the conduct of routine preventive maintenance.

(B) The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. 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. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

(3) The requirements of this subsection shall be implemented not later than July 1, 1995.

(e) Acceptance of gifts and bequests

Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the use to which such gift or bequest is put, and any positive results achieved by such action.

(f) "Functions" defined

For the purpose of this section the term "functions" includes powers and duties.

(Pub. L. 95-561, title XI, §1126, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3988.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b) and (d)(2)(B), 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 note set out under section 6301 of Title 20, Education, and Tables.

PRIOR PROVISIONS

A 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2504 of this title.

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

(1) The Secretary shall establish, by regulation adopted in accordance with section 2019¹ 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 size 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 boarding arrangements, where determined necessary by a tribal governing body or designated local school board;
 - (vii) costs associated with greater lengths of service by educational personnel; and
 - (viii) special programs 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; and
- (D) such other relevant factors as the Secretary determines are appropriate.

(2) Upon the establishment of the standards required by sections 2001 and 2002 of this title, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 2001 of this title to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

(b) Pro rata allotment

Notwithstanding any other provisions 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) of this section.

(c) Annual adjustment; reservation of amount for training

(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) of this section to—

- (A) use 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) consider 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; and

(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed by the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) of this section to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

(C) From the funds allotted in accordance with the formula established under subsection (a) of this section for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

- (i) \$5,000, or
- (ii) the lesser of—
 - (I) \$15,000, or
 - (II) 1 percent of such allotted funds,

for school board activities for such school, including and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

(3) The Secretary shall adjust the formula established under subsection (a) of this section to use a weighted unit of 2.0 for each eligible Indian student that—

- (A) is gifted and talented, and
- (B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

(4)(A) The Secretary shall adjust the formula established under subsection (a) of this section to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as

¹ See References in Text note below.