

§ 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.

part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

(B) The adjustment required under subparagraph (A) shall be used for such school after—

(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year following the school year for which the certification is made; and

(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

(d) Reservation of amount for emergencies

The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 2503(c)(2) of this title). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

(e) Supplemental appropriations

Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

(f) “Eligible Indian student” defined

For the purpose of this section, the term “eligible Indian student” means a student who—

(1) is a member of or is at least a ¼ degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians, and

(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

(g) Tuition

(1) An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition.

(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

(A) the Secretary determines that the student’s attendance will not adversely affect the

school’s program for eligible Indian students because of cost, overcrowding, or violation of standards,

(B) the school board consents,

(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government, employee who lives on or near the school site, or

(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, is² in addition to the school’s allocation under this section.

(3) The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students is in addition to funding under this section.

(h) Funds available without fiscal year limitation

Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision immediately.

(i) Students boarding at Richfield Dormitory, Richfield, Utah

Beginning with academic year 1994-1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 2010 of this title at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

(Pub. L. 95-561, title XI, §1127, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3989.)

REFERENCES IN TEXT

Section 2019 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-362, title VIII, §801(c)(5), Nov. 10, 1998, 112 Stat. 3288.

PRIOR PROVISIONS

A prior section 2007, Pub. L. 95-561, title XI, §1127, Nov. 1, 1978, 92 Stat. 2320, related to policies and procedures for implementation of transferred administrative 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 sections 2001, 2010 of this title.

§ 2008. Administrative cost grants

(a) Purpose; effect upon appropriated amounts

(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to

²So in original. Probably should be “students. The tuition collected is”.