

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.

§ 2021. Definitions

For the purposes of this chapter, unless otherwise specified:

(1) Agency school board

The term “agency school board” means a body—

(A) the members of which are appointed by all of the school boards of the schools located within an agency, including schools operated under contract or grant; and

(B) the number of such members is determined by the Secretary, in consultation with the affected tribes;

except that, in agencies serving a single school, the school board of such school shall fulfill these duties, and in agencies having schools or a school operated under contract or grant, one such member at least shall be from such a school.

(2) Bureau

The term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior.

(3) Bureau-funded school

The term “Bureau-funded school” means—

(A) a Bureau school;

(B) a contract or grant school; or

(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

(4) Bureau school

The term “Bureau school” means a Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school.

(5) Complementary educational facilities

The term “complementary educational facilities” means educational program functional spaces such as libraries, gymnasiums, and cafeterias.

(6) Contract or grant school

The term “contract or grant school” means an elementary school, secondary school, or dormitory that receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 5321, 5322(a), or 5352 of this title, or under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.].

(7) Director

The term “Director” means the Director of the Office of Indian Education Programs.

(8) Education line officer

The term “education line officer” means a member of the education personnel under the supervision of the Director of the Office, whether located in a central, area, or agency office.

(9) Family literacy services

The term “family literacy services” has the meaning given that term in section 7801 of title 20.

(10) Financial plan

The term “financial plan” means a plan of services provided by each Bureau school.

(11) Indian organization

The term “Indian organization” means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized tribes.

(12) Inherently Federal functions

The term “inherently Federal functions” means functions and responsibilities which, under section 2006(c) of this title, are non-contractable, including—

(A) the allocation and obligation of Federal funds and determinations as to the amounts of expenditures;

(B) the administration of Federal personnel laws for Federal employees;

(C) the administration of Federal contracting and grant laws, including the monitoring and auditing of contracts and grants in order to maintain the continuing trust, programmatic, and fiscal responsibilities of the Secretary;

(D) the conducting of administrative hearings and deciding of administrative appeals;

(E) the determination of the Secretary’s views and recommendations concerning administrative appeals or litigation and the representation of the Secretary in administrative appeals and litigation;

(F) the issuance of Federal regulations and policies as well as any documents published in the Federal Register;

(G) reporting to Congress and the President;

(H) the formulation of the Secretary’s and the President’s policies and their budgetary and legislative recommendations and views; and

(I) the nondelegable statutory duties of the Secretary relating to trust resources.

(13) Local educational agency

The term “local educational agency” means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, or independent or other school district located within a State, and includes any State agency that directly operates and maintains facilities for providing free public education.

(14) Local school board

The term “local school board”, when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that, for a school serving a substantial number of students from different tribes—

(A) the members of the body shall be appointed by the tribal governing bodies of the tribes affected; and

(B) the number of such members shall be determined by the Secretary in consultation with the affected tribes.

(15) Office

The term “Office” means the Office of Indian Education Programs within the Bureau.

(16) Regulation

(A) In general

The term “regulation” means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this Act.

(B) Rule of construction

Nothing in subparagraph (A) or any other provision of this chapter shall be construed to prohibit the Secretary from issuing guidance, internal directives, or other documents similar to the documents found in the Indian Affairs Manual of the Bureau of Indian Affairs.

(17) Secretary

The term “Secretary” means the Secretary of the Interior.

(18) Supervisor

The term “supervisor” means the individual in the position of ultimate authority at a Bureau school.

(19) Tribal governing body

The term “tribal governing body” means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

(20) Tribe

The term “tribe” means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Regional Corporation or Village Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Pub. L. 95-561, title XI, §1141, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2061; amended Pub. L. 114-95, title IX, §9215(cc)(2), Dec. 10, 2015, 129 Stat. 2173.)

Editorial Notes

REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in pars. (3)(C) and (6), is part B (§5201-5212) of title V of Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

This Act, referred to in par. (16)(A), 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.

This chapter, referred to in par. (16)(B), was in the original “this title”, meaning title XI (§1101 et seq.) of Pub. L. 95-561, as amended, which is classified principally to this chapter. For complete classification of title XI to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in par. (20), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 2021, Pub. L. 95-561, title XI, §1141, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012, related to proration of pay, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2021, Pub. L. 95-561, title XI, §1140A, formerly §1141, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398; renumbered §1140A and amended Pub. L. 99-89, §9(a)(1), (b), Aug. 15, 1985, 99 Stat. 383, related to proration of pay, prior to the general amendment of this chapter by Pub. L. 103-382.

A prior section 2022, Pub. L. 95-561, title XI, §1142, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012, related to extracurricular activities, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2012 of this title.

Another prior section 2022 and prior sections 2022a and 2022b were omitted in the general amendment of this chapter by Pub. L. 103-382.

Section 2022, Pub. L. 95-561, title XI, §1140B, formerly §1142, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398; renumbered §1140B, and amended Pub. L. 99-89, §9(a)(1), (c), Aug. 15, 1985, 99 Stat. 383, related to extracurricular activities.

Section 2022a, Pub. L. 95-561, title XI, §1141, as added Pub. L. 100-297, title V, §5116(2), Apr. 28, 1988, 102 Stat. 381, related to early childhood development program.

Section 2022b, Pub. L. 95-561, title XI, §1142, as added Pub. L. 100-297, title V, §5119, Apr. 28, 1988, 102 Stat. 383, related to tribal departments of education.

A prior section 2023, Pub. L. 95-561, title XI, §1143, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4012; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1607(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-335, related to early childhood development program, prior to the general amendment of this chapter by Pub. L. 107-110. See section 2019 of this title.

Another prior section 2023, Pub. L. 95-561, title XI, §1143, as added Pub. L. 98-511, title V, §512, Oct. 19, 1984, 98 Stat. 2398, related to employee housing, rental rates, and waiver of rentals during non-session periods and non-pay status, prior to repeal by Pub. L. 99-89, §9(a)(2), Aug. 15, 1985, 99 Stat. 383.

Prior sections 2024 to 2026 were omitted in the general amendment of this chapter by Pub. L. 107-110.

Section 2024, Pub. L. 95-561, title XI, §1144, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4013; amended Pub. L. 105-244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828, related to tribal departments of education. See section 2020 of this title.

Section 2025, Pub. L. 95-561, title XI, §1145, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4015, related to payments to grantees.

Section 2026, Pub. L. 95-561, title XI, §1146, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 4015; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVI, §1607(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-335, defined terms. See section 2021 of this title.

AMENDMENTS

2015—Par. (9). Pub. L. 114-95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

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EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

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.

CHAPTER 23—DEVELOPMENT OF TRIBAL MINERAL RESOURCES

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§ 2101. Definitions

For the purposes of this chapter, the term—

(1) "Indian" means any individual Indian or Alaska Native who owns land or interests in land the title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

(2) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; and

(3) "Secretary" means the Secretary of the Interior.

(Pub. L. 97-382, § 2, Dec. 22, 1982, 96 Stat. 1938.)

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SHORT TITLE

Pub. L. 97-382, § 1, Dec. 22, 1982, 96 Stat. 1938, provided: "That this Act [enacting this chapter] may be cited as the 'Indian Mineral Development Act of 1982'."

§ 2102. Minerals Agreements**(a) Authorization for tribes; approval by Secretary**

Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into any joint venture, operating, production sharing, service, managerial, lease or other agreement, or any amendment, supplement or other modification of such agreement (hereinafter referred to as a "Minerals Agreement") providing for the exploration for, or extraction, processing, or other development of, oil, gas, uranium, coal, geothermal, or other energy or nonenergy mineral resources (hereinafter re-

ferred to as "mineral resources") in which such Indian tribe owns a beneficial or restricted interest, or providing for the sale or other disposition of the production or products of such mineral resources.

(b) Inclusion of individual holdings; approval by parties and Secretary

Any Indian owning a beneficial or restricted interest in mineral resources may include such resources in a tribal Minerals Agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian.

(Pub. L. 97-382, § 3, Dec. 22, 1982, 96 Stat. 1938.)

§ 2103. Secretary's determination on Minerals Agreements**(a) Time; enforcement**

The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 4332(2)(C) of title 42 or any other requirement of Federal law, whichever is later. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28.

(b) Factors for consideration; extent of required study

In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe or of any individual Indian who may be party to such agreement and shall consider, among other things, the potential economic return to the tribe; the potential environmental, social, and cultural effects on the tribe; and provisions for resolving disputes that may arise between the parties to the agreement: *Provided*, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 4332(2)(C) of title 42.

(c) Prior notice of proposed finding; privileged information

Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(d) Delegation; final action; appeal; burden on Secretary

The authority to disapprove agreements under this section may only be delegated to the Assist-