

# **TITLE VII — INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION**

## **PART A — INDIAN EDUCATION**

### **SEC. 7101. STATEMENT OF POLICY.**

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, post-secondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

### **SEC. 7102. PURPOSE.**

(a) **PURPOSE-** It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, post-secondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

(b) **PROGRAMS-** This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for —

- (1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;
- (2) the education of Indian children and adults;
- (3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and
- (4) research, evaluation, data collection, and technical assistance.

## **Subpart 1 — Formula Grants to Local Educational Agencies**

### **SEC. 7111. PURPOSE.**

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs —

- (1) are based on challenging State academic content and student academic achievement standards that are used for all students; and
- (2) are designed to assist Indian students in meeting those standards.

### **SEC. 7112. GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBES.**

(a) **IN GENERAL-** The Secretary may make grants, from allocations made under section 7113, to local educational agencies and Indian tribes, in accordance with this section and section 7113.

(b) **LOCAL EDUCATIONAL AGENCIES-**

(1) **ENROLLMENT REQUIREMENTS-** A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7117 who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year —

- (A) was at least 10; or
- (B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) EXCLUSION- The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

**(c) INDIAN TRIBES-**

(1) IN GENERAL- If a local educational agency that is otherwise eligible for a grant under this subpart does not establish a committee under section 7114(c)(4) for such grant, an Indian tribe that represents not less than 1/2 of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) SPECIAL RULE- The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe is not subject to section 7114(c)(4), section 7118(c), or section 7119.

**SEC. 7113. AMOUNT OF GRANTS.**

**(a) AMOUNT OF GRANT AWARDS-**

(1) IN GENERAL- Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of —

(A) the number of Indian children who are eligible under section 7117 and served by such agency; and

(B) the greater of —

(i) the average per pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) REDUCTION- The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e).

**(b) MINIMUM GRANT-**

(1) IN GENERAL- Notwithstanding subsection (e), an entity that is eligible for a grant under section 7112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than \$3,000.

(2) CONSORTIA- Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

(3) INCREASE- The Secretary may increase the minimum grant under paragraph (1) to not more than \$4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

**(c) DEFINITION-** For the purpose of this section, the term 'average per pupil expenditure', used with respect to a State, means an amount equal to —

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

**(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS-**

(1) IN GENERAL- Subject to subsection (e), in addition to the grants awarded under subsection (a), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of —

(A) the total number of Indian children enrolled in schools that are operated by —

(i) the Bureau of Indian Affairs; or

(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988; and

(B) the greater of —

(i) the average per pupil expenditure of the State in which the school is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) SPECIAL RULE- Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7114, and shall otherwise be treated as a local

educational agency for the purpose of this subpart, except that such school shall not be subject to section 7114(c)(4), section 7118(c), or section 7119.

(e) **RATABLE REDUCTIONS-** If the sums appropriated for any fiscal year under section 7152(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

## **SEC. 7114. APPLICATIONS.**

(a) **APPLICATION REQUIRED-** Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) **COMPREHENSIVE PROGRAM REQUIRED-** Each application submitted under subsection (a) shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that —

(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2) (A) is consistent with the State and local plans submitted under other provisions of this Act; and

(B) includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under title I for all children;

(3) explains how Federal, State, and local programs, especially programs carried out under title I, will meet the needs of such students;

(4) demonstrates how funds made available under this subpart will be used for activities described in section 7115;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that —

(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

(6) describes how the local educational agency —

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to--

(i) the committee described in subsection (c)(4); and

(ii) the community served by the local educational agency; and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

(c) **ASSURANCES-** Each application submitted under subsection (a) shall include assurances that--

(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart; and

(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

(3) the program for which assistance is sought—

(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

- (C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and
- (4) the local educational agency developed the program with the participation and written approval of a committee—
- (A) that is composed of, and selected by--
    - (i) parents of Indian children in the local educational agency's schools;
    - (ii) teachers in the schools; and
    - (iii) if appropriate, Indian students attending secondary schools of the agency;
  - (B) a majority of whose members are parents of Indian children;
  - (C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;
  - (D) with respect to an application describing a schoolwide program in accordance with section 7115(c), that has—
    - (i) reviewed in a timely fashion the program; and
    - (ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and
  - (E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

## **SEC. 7115. AUTHORIZED SERVICES AND ACTIVITIES.**

- (a) **GENERAL REQUIREMENTS-** Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7111, for services and activities that —
- (1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7114(a);
  - (2) are designed with special regard for the language and cultural needs of the Indian students; and
  - (3) supplement and enrich the regular school program of such agency.
- (b) **PARTICULAR ACTIVITIES-** The services and activities referred to in subsection (a) may include —
- (1) culturally related activities that support the program described in the application submitted by the local educational agency;
  - (2) early childhood and family programs that emphasize school readiness;
  - (3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content and student academic achievement standards;
  - (4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;
  - (5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998, including programs for tech-prep education, mentoring, and apprenticeship;
  - (6) activities to educate individuals concerning substance abuse and to prevent substance abuse;
  - (7) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7111;
  - (8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;
  - (9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;
  - (10) family literacy services; and
  - (11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

(c) **SCHOOLWIDE PROGRAMS-** Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if —

(1) the committee established pursuant to section 7114(c)(4) approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purpose described in section 7111.

(d) **LIMITATION ON ADMINISTRATIVE COSTS-** Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

## **SEC. 7116. INTEGRATION OF SERVICES AUTHORIZED.**

(a) **PLAN-** An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

(b) **CONSOLIDATION OF PROGRAMS-** Upon the receipt of an acceptable plan under subsection (a), the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal programs, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(c) **PROGRAMS AFFECTED-** The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

(d) **PLAN REQUIREMENTS-** For a plan to be acceptable pursuant to subsection (b), the plan shall —

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

(9) be approved by a committee formed in accordance with section 7114(c)(4), if such a committee exists.

(e) **PLAN REVIEW-** Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) **PLAN APPROVAL-** Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

**(g) RESPONSIBILITIES OF DEPARTMENT OF EDUCATION-** Not later than 180 days after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be —

- (1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or
- (2) the Secretary of Education, in the case of any other entity.

**(h) RESPONSIBILITIES OF LEAD AGENCY-** The responsibilities of the lead agency shall include —

- (1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;
- (2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;
- (3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and
- (4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

**(i) REPORT REQUIREMENTS-** A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h), together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

**(j) NO REDUCTION IN AMOUNTS-** In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

**(k) INTERAGENCY FUND TRANSFERS AUTHORIZED-** The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

**(l) ADMINISTRATION OF FUNDS-**

(1) **IN GENERAL-** Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

(2) **SEPARATE RECORDS NOT REQUIRED-** Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

**(m) OVERAGE-** The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

**(n) FISCAL ACCOUNTABILITY-** Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31, United States Code.

**(o) REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION-**

(1) **PRELIMINARY REPORT-** Not later than 2 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

(2) FINAL REPORT- Not later than 5 years after the date of enactment of the No Child Left Behind Act of 2001, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

(p) DEFINITIONS- For the purposes of this section, the term Secretary' means —

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978; or

(2) the Secretary of Education, in the case of any other entity.

## **SEC. 7117. STUDENT ELIGIBILITY FORMS.**

(a) IN GENERAL- The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b).

(b) FORMS- The form described in subsection (a) shall include —

(1) either —

(A) (i) the name of the tribe or band of Indians (as defined in section 7151) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or (B) the name, the enrollment number (if readily available), and the name and address of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child;

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) STATUTORY CONSTRUCTION- Nothing in this section shall be construed to affect a definition contained in section 7151.

(d) FORMS AND STANDARDS OF PROOF- The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985-86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used —

(1) to establish eligibility under this subpart; and

(2) to meet the requirements of subsection (a).

(e) DOCUMENTATION- For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

(f) MONITORING AND EVALUATION REVIEW-

(1) IN GENERAL-

(A) REVIEW- For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

(B) EXCEPTION- A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) FALSE INFORMATION- Any local educational agency that provides false information in an application for a grant under this subpart shall —

(A) be ineligible to apply for any other grant under this subpart; and

(B) be liable to the United States for any funds from the grant that have not been expended.

(3) EXCLUDED CHILDREN- A student who provides false information for the form required under subsection (a) shall not be counted for the purpose of computing the amount of a grant under section 7113.

(g) TRIBAL GRANT AND CONTRACT SCHOOLS- Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

(1) A count of the number of students in the schools certified by the Bureau.

(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(h) TIMING OF CHILD COUNTS- For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (g)(1)), the local educational agency shall —

(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7114; and

(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

## **SEC. 7118. PAYMENTS.**

(a) IN GENERAL- Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE- The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT-

(1) IN GENERAL- The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

(2) FAILURE TO MAINTAIN EFFORT- If, for the preceding fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort for such agency at the level specified in paragraph (1), the Secretary shall —

(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

(B) not use the reduced amount of the agency and State expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

(3) WAIVER-

(A) IN GENERAL- The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such



requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

(B) FUTURE DETERMINATIONS- The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

(d) REALLOCATIONS- The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that —

- (1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or
- (2) otherwise become available for reallocation under this subpart.

## **SEC. 7119. STATE EDUCATIONAL AGENCY REVIEW.**

Before submitting an application to the Secretary under section 7114, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

### **Subpart 2 — Special Programs and Projects To Improve Educational Opportunities for Indian Children**

## **SEC. 7121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.**

(a) PURPOSE-

(1) IN GENERAL- It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

(2) COORDINATION- The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this subpart with —

(A) other programs funded under this Act; and

(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

(b) ELIGIBLE ENTITIES- In this section, the term eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

(c) GRANTS AUTHORIZED-

(1) IN GENERAL- The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including —

(A) innovative programs related to the educational needs of educationally disadvantaged children;

(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the post-secondary level to aid such students in the transition from secondary to post-secondary education;

(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

(K) family literacy services;

(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

(M) other services that meet the purpose described in this section.

(2) PROFESSIONAL DEVELOPMENT- Professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

**(d) GRANT REQUIREMENTS AND APPLICATIONS-**

**(1) GRANT REQUIREMENTS-**

(A) IN GENERAL- The Secretary may make multiyear grants under subsection (c) for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

(B) PRIORITY- In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

(C) PROGRESS- The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

**(2) DISSEMINATION GRANTS-**

(A) IN GENERAL- In addition to awarding the multiyear grants described in paragraph (1), the Secretary may award grants under subsection (c) to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) DETERMINATION- The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated —

(i) has been adequately reviewed;

(ii) has demonstrated educational merit; and

(iii) can be replicated.

**(3) APPLICATION-**

(A) IN GENERAL- Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) CONTENTS- Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain —

(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

(v) such other assurances and information as the Secretary may reasonably require.

**(e) ADMINISTRATIVE COSTS-** Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

## **SEC. 7122. PROFESSIONAL DEVELOPMENT FOR TEACHERS AND EDUCATION PROFESSIONALS.**

- (a) **PURPOSES-** The purposes of this section are —
- (1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;
  - (2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and
  - (3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).
- (b) **ELIGIBLE ENTITIES-** For the purpose of this section, the term eligible entity' means —
- (1) an institution of higher education, including an Indian institution of higher education;
  - (2) a State educational agency or local educational agency, in consortium with an institution of higher education;
  - (3) an Indian tribe or organization, in consortium with an institution of higher education; and
  - (4) a Bureau-funded school (as defined in section 1146 of the Education Amendments of 1978).
- (c) **PROGRAM AUTHORIZED-** The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d).
- (d) **AUTHORIZED ACTIVITIES-**
- (1) **IN GENERAL-** Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors.
  - (2) **SPECIAL RULES-**
    - (A) **TYPE OF TRAINING-** For education personnel, the training received pursuant to a grant under this section may be in-service or pre-service training.
    - (B) **PROGRAM-** For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.
- (e) **APPLICATION-** Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.
- (f) **SPECIAL RULE-** In awarding grants under this section, the Secretary —
- (1) shall consider the prior performance of the eligible entity; and
  - (2) may not limit eligibility to receive a grant under this section on the basis of —
    - (A) the number of previous grants the Secretary has awarded such entity; or
    - (B) the length of any period during which such entity received such grants.
- (g) **GRANT PERIOD-** Each grant under this section shall be awarded for a period of not more than 5 years.
- (h) **SERVICE OBLIGATION-**
- (1) **IN GENERAL-** The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section —
    - (A) perform work —
      - (i) related to the training received under this section; and
      - (ii) that benefits Indian people; or
    - (B) repay all or a prorated part of the assistance received.
  - (2) **REPORTING-** The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

### **Subpart 3 — National Activities**

## **SEC. 7131. NATIONAL RESEARCH ACTIVITIES.**

**(a) AUTHORIZED ACTIVITIES-** The Secretary may use funds made available under section 7152(b) for each fiscal year to —

- (1) conduct research related to effective approaches for the education of Indian children and adults;
- (2) evaluate federally assisted education programs from which Indian children and adults may benefit;
- (3) collect and analyze data on the educational status and needs of Indians; and
- (4) carry out other activities that are consistent with the purpose of this part.

**(b) ELIGIBILITY-** The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

**(c) COORDINATION-** Research activities supported under this section —

- (1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and
- (2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs and the Office of Educational Research and Improvement.

### **SEC. 7132. IN-SERVICE TRAINING FOR TEACHERS OF INDIAN CHILDREN.**

**(a) GRANTS AUTHORIZED-** In addition to the grants authorized by section 7122(c), the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to —

- (1) a consortium of a tribal college and an institution of higher education that awards a degree in education; or
- (2) a consortium of —
  - (A) a tribal college;
  - (B) an institution of higher education that awards a degree in education; and
  - (C) one or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

**(b) USE OF FUNDS-**

(1) **IN-SERVICE TRAINING-** A consortium that receives a grant under subsection (a) shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

(2) **COMPONENTS-** The training described in paragraph (1) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

**(c) PREFERENCE FOR INDIAN APPLICANTS-** In applying section 7143 to this section, the Secretary shall give a preference to any consortium that includes one or more of the entities described in section 7143.

### **SEC. 7133. FELLOWSHIPS FOR INDIAN STUDENTS.**

**(a) FELLOWSHIPS-**

(1) **AUTHORITY-** The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

(2) **REQUIREMENTS-** The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

- (A) of not more than 4 academic years; and
- (B) that leads—
  - (i) toward a post-baccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or
  - (ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

(b) **STIPENDS**— The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

(c) **PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION**— The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

(d) **SPECIAL RULES**—

(1) **IN GENERAL**— If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

(2) **WRITTEN NOTICE**— Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

(A) the amount of the funding for the fellowship; and

(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

(3) **PRIORITY**— Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) **SERVICE OBLIGATION**—

(1) **IN GENERAL**— The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

(A) perform work—

(i) related to the training for which the individual receives the assistance under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated portion of such assistance.

(2) **REPORTING**— The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

(f) **ADMINISTRATION OF FELLOWSHIPS**— The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

## **SEC. 7134. GIFTED AND TALENTED INDIAN STUDENTS.**

(a) **PROGRAM AUTHORIZED**— The Secretary is authorized to —

(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

(2) support demonstration projects described in subsection (c).

(b) **ELIGIBLE ENTITIES**— The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a), to or with —

(1) two tribally controlled community colleges that —

(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978; and

(B) are fully accredited; or

(2) the American Indian Higher Education Consortium, if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1).

(c) **USE OF FUNDS**—

(1) **IN GENERAL**— Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) shall be used for —

(A) the establishment of centers described in subsection (a); and

(B) carrying out demonstration projects designed to —

- (i) address the special needs of Indian students in elementary schools and secondary schools who are gifted and talented; and
  - (ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.
- (2) **SUBCONTRACTS-** Each recipient of a grant or contract under subsection (b) to carry out a demonstration project under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project.
- (3) **DEMONSTRATION PROJECTS-** Demonstration projects assisted under subsection (b) may include —
  - (A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to —
    - (i) identifying the emotional and psychosocial needs of such students; and
    - (ii) providing such support services to the families of such students as are needed to enable such students to benefit from the projects;
  - (B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including —
    - (i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and
    - (ii) carrying out mentoring and apprenticeship programs;
  - (C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;
  - (D) the use of public television in meeting the special educational needs of such gifted and talented children;
  - (E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and
  - (F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children as are needed to enable such children to benefit from the projects.
- (4) **APPLICATION-** Each eligible entity desiring a grant or contract under subsection (b) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.
- (d) ADDITIONAL GRANTS-**
  - (1) **IN GENERAL-** The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter referred to individually in this section as a Bureau school') for program research and development and the development and dissemination of curriculum and teacher training material, regarding —
    - (A) gifted and talented students;
    - (B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);
    - (C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or
    - (D) mathematics and science education.
  - (2) **APPLICATIONS-** Each Bureau school desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.
  - (3) **SPECIAL RULE-** Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.
  - (4) **REQUIREMENTS-** In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

(5) GRANT PERIOD- Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

(6) DISSEMINATION-

(A) COOPERATIVE EFFORTS- The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

(B) REPORT- The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

(7) EVALUATION COSTS-

(A) DIVISION- The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under subsection (a).

(B) GRANTS AND CONTRACTS- If no funds are provided under subsection (b) for —

(i) the evaluation of activities assisted under paragraph (1);

(ii) technical assistance and coordination with respect to such activities; or

(iii) the dissemination of the evaluations referred to in clause (i), the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

(e) INFORMATION NETWORK- The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

## **SEC. 7135. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.**

(a) IN GENERAL- The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to —

(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

(2) develop education codes for schools within the territorial jurisdiction of the tribe;

(3) provide support services and technical assistance to schools serving children of the tribe; and

(4) perform child-find screening services for the preschool-aged children of the tribe to —

(A) ensure placement in appropriate educational facilities; and

(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) PERIOD OF GRANT- Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

(c) APPLICATION FOR GRANT-

(1) IN GENERAL- Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) CONTENTS- Each application described in paragraph (1) shall contain —

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

(3) APPROVAL- The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application —

(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

(d) **RESTRICTION-** A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Education Amendments of 1978.

## **SEC. 7136. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.**

(a) **IN GENERAL-** The Secretary shall make grants to State educational agencies, local educational agencies, and Indian tribes, institutions, and organizations —

(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs that are designed to stimulate —

(A) the provision of basic literacy opportunities for all non-literate Indian adults; and

(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

(b) **EDUCATIONAL SERVICES-** The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) **INFORMATION AND EVALUATION-** The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for —

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

(d) **APPLICATIONS-**

(1) **IN GENERAL-** Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) **CONTENTS-** Each application described in paragraph (1) shall contain —

(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

(3) **APPROVAL-** The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that —

(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

(4) **PRIORITY-** In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) **ADMINISTRATIVE COSTS-** Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.



## **Subpart 4 — Federal Administration**

### **SEC. 7141. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.**

(a) MEMBERSHIP- There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the Council'), which shall —

- (1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and
- (2) represent different geographic areas of the United States.

(b) DUTIES- The Council shall —

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part

—

- (A) with respect to which the Secretary has jurisdiction; and
- (B) (i) that includes Indian children or adults as participants; or  
(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including

—

- (A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and
- (B) recommendations concerning the funding of any program described in subparagraph (A).

### **SEC. 7142. PEER REVIEW.**

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3.

### **SEC. 7143. PREFERENCE FOR INDIAN APPLICANTS.**

In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

### **SEC. 7144. MINIMUM GRANT CRITERIA.**

The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 unless the application is for a grant, contract, or cooperative agreement that is —

- (1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and
- (2) based on relevant research findings.

## **Subpart 5 — Definitions; Authorizations of Appropriations**

### **SEC. 7151. DEFINITIONS.**

For the purposes of this part:

- (1) ADULT- The term adult' means an individual who —

- (A) has attained the age of 16 years; or
  - (B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.
- (2) FREE PUBLIC EDUCATION- The term free public education' means education that is —
- (A) provided at public expense, under public supervision and direction, and without tuition charge; and
  - (B) provided as elementary or secondary education in the applicable State or to preschool children.
- (3) INDIAN- The term Indian' means an individual who is —
- (A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including —
    - (i) any tribe or band terminated since 1940; and
    - (ii) any tribe or band recognized by the State in which the tribe or band resides;
  - (B) a descendant, in the first or second degree, of an individual described in subparagraph (A);
  - (C) considered by the Secretary of the Interior to be an Indian for any purpose;
  - (D) an Eskimo, Aleut, or other Alaska Native; or
  - (E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding the date of enactment of the Improving America's Schools Act of 1994.

### **SEC. 7152. AUTHORIZATIONS OF APPROPRIATIONS.**

- (a) SUBPART 1- For the purpose of carrying out subpart 1, there are authorized to be appropriated \$96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.
- (b) SUBPARTS 2 AND 3- For the purpose of carrying out subparts 2 and 3, there are authorized to be appropriated \$24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years VII of such Act, as added by this section.