

- Sec. 1009. Children for whom local agencies are unable to provide education.
- Sec. 1010. Prompt consideration for applications.
- Sec. 1011. Property owned by foreign governments and international organizations.
- Sec. 1012. Definition of local educational agency.
- Sec. 1013. Handicapped children.
- Sec. 1014. Use of average daily membership.
- Sec. 1015. Impact aid study.

## PART B—PUBLIC LAW 815

- Sec. 1021. General extensions of Public Law 815.
- Sec. 1022. Determination of number of children.
- Sec. 1023. Construction arrangements.
- Sec. 1024. Disaster assistance.

## PART C—GENERAL PROVISIONS

- Sec. 1031. Northern Mariana Islands.
- Sec. 1032. Effective Date.

## TITLE XI—INDIAN EDUCATION

## PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

- Sec. 1101. Amendment to Public Law 874.
- Sec. 1102. Funding provision.
- Sec. 1103. Basic educational support.

## PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

- Sec. 1121. Standards for the basic education of Indian children in Bureau of Indian Affairs schools.
- Sec. 1122. National criteria for dormitory situations.
- Sec. 1123. Regulations.
- Sec. 1124. Studies.
- Sec. 1125. Facilities construction.
- Sec. 1126. Bureau of Indian Affairs education functions.
- Sec. 1127. Implementation.
- Sec. 1128. Allotment formula.
- Sec. 1129. Uniform direct funding and support.
- Sec. 1130. Policy for Indian control of Indian education.
- Sec. 1131. Education personnel.
- Sec. 1132. Management information system.
- Sec. 1133. Bureau education policies.
- Sec. 1134. Uniform education procedures and practices.
- Sec. 1135. Recruitment of Indian educators.
- Sec. 1136. Annual report.
- Sec. 1137. Rights of Indian students.
- Sec. 1138. Regulations.
- Sec. 1139. Definitions.

## PART C—INDIAN EDUCATION PROVISIONS

- Sec. 1141. Extension of authorization.
- Sec. 1142. Culturally related academic needs.
- Sec. 1143. Demonstration projects.
- Sec. 1144. Parent committees.
- Sec. 1145. Allocation adjustment.
- Sec. 1146. Tribal schools.
- Sec. 1147. Definition study.
- Sec. 1148. Data collection.
- Sec. 1149. Program monitoring.
- Sec. 1150. Amendments to title X of the Elementary and Secondary Education Act of 1965.
- Sec. 1151. Definition of Indian.
- Sec. 1152. Teacher training and fellowships.

## FUNDING PROVISION

- Publication in Federal Register. 25 USC 13 note. 25 USC 13.  
25 USC 452 note.  
Field survey.  
Formula, publication in Federal Register.
- SEC. 1102. (a) The Secretary of the Interior shall develop alternative methods for the equitable distribution of any supplement program funds provided, pursuant to an appropriation under the Act of November 2, 1921, commonly referred to as the Snyder Act, for contracting under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act, and shall publish in the Federal Register by March 1, 1979, such alternatives for the purpose of allowing eligible tribes to comment by May 1, 1979. At that time, the Secretary shall conduct a field survey listing all alternative formula.
- (b) By July 1, 1979, the Secretary shall establish and publish the formula in the Federal Register which the majority of such tribes determine, but vote certified to the Secretary, to be most equitable and shall use such formula for purposes of distribution of the funds appropriated pursuant to such Act beginning on or after October 1, 1979. The Secretary shall, in accordance with procedures consistent with that prescribed herein, revise such formula periodically as necessary.

## BASIC EDUCATIONAL SUPPORT

- 25 USC 13 note.
- SEC. 1103. (a) (1) From sums already appropriated under the Act of November 2, 1921 (25 U.S.C. 13) and notwithstanding any other provision of law or any requirement of a grant or agreement relating to the timing of payments for basic support contracts or grants under the Act of April 16, 1934 (25 U.S.C. 452-457), the Secretary of the Interior shall make payments of any unexpended funds obligated for basic support contracts or grants under such Act of November 2, 1921, for fiscal year 1978 to any school that has received notification from the Department of the Interior of the award of such a contract or grant. Such payments shall be made in accordance with any applicable condition of such contracts or grants other than conditions relating to the timing of payments.
- (2) The Secretary of the Interior shall make the payments referred to in paragraph (1) not later than thirty days after the date of the enactment of this Act. Saturdays, Sundays, and legal public holidays, as established by section 6103 of title 5, United States Code, shall not be considered as days for purposes of the preceding sentence.
- 25 USC 13-1.
- (b) Such sums as are needed under such Act of November 2, 1921, are authorized to be appropriated to provide funds for basic educational support through parent committees under such Act of April 16, 1934, to those public schools educating Indian students and whose total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian students to a level equal to the level of education provided non-Indian students in the public schools in which they are enrolled where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

## PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

## STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

- Studies and surveys. 25 USC 2001.
- SEC. 1121. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, and in

consultation with Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools and Indian controlled contract schools (hereinafter referred to as "contract schools"). Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographical isolation and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

(b) (1) Within fifteen months of the date of enactment of this Act, the Secretary shall propose minimum academic standards for the basic education of Indian children, and shall distribute such proposed standards to the tribes and publish such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such standards in the Federal Register. The Secretary shall revise such standards periodically as necessary. Prior to any revision of such standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

(2) Such standards shall apply to Bureau schools, and subject to subsection (e), to contract schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

(c) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (b), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

(d) A tribal governing body, or the local school board if so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsections (b) and (c), where such standards are deemed by such body to be inappropriate or ill-conceived, and shall also have the authority to revise such standards to take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

(e) The Secretary, through contracting procedures, shall assist school boards of contract schools in the implementation of the standards established under subsection (b) and (c), if the school boards request that such standards, in part or in whole, be implemented. The Secretary shall not refuse to enter into a contract with respect to any contract school on the basis of failure to meet such standards. At the request of a contract school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (b) and (c) to take into account the needs of the Indian children and the contract school.

Minimum  
academic  
standards.  
Publication in  
Federal Register.

Waiver.

Plan, submittal to congressional committees.

(f) Subject to subsections (d) and (e), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract schools up to the level required by the applicable standards established under this section. Such plan shall include, but not be limited to, detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

Appropriation authorization.

(g) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau and contract schools up to the level required by the applicable standards established under this section.

#### NATIONAL CRITERIA FOR DORMITORY SITUATIONS

Boarding costs, study.  
25 USC 2002.

SEC. 1122. (a) The Secretary, in consultation with the Assistant Secretary for Health, Education, and Welfare for Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau and contract schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

Distributions to tribes and publication in Federal Register.

(b) Within fifteen months of the date of enactment of this Act, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within eighteen months of the date of enactment of this Act, the Secretary shall establish final criteria, distribute such criteria to all the tribes, and publish such criteria in the Federal Register. The Secretary shall revise such criteria periodically as necessary. Prior to any revision of such criteria, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

Plan, submittal to congressional committees.

(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of their establishment. Within one year of such date, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under this section. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section.

## REGULATIONS

SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act. 25 USC 2003.

## STUDIES

SEC. 1124. There are hereby authorized to be appropriated no more than \$1,000,000 to carry out the studies conducted under section 1121 (a) and section 1122(a). Appropriations, limitation. 25 USC 2004.

## FACILITIES CONSTRUCTION

SEC. 1125. (a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), and with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of this Act. 25 USC 2005.

(b) Within one year of the date of enactment of this Act, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include, but not be limited to, detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards. Plan, submittal to congressional committees.

(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities. Priorities, submittals to congressional committees and publications in Federal Register.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a). Appropriation authorization.

## BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 1126. (a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau (hereinafter referred to as the "Office"), which shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. 25 USC 2006.

(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau. The Assistant Secre-

tary for Indian Affairs shall provide for the adequate coordination between the affected Bureau offices and the Office in order to facilitate the expeditious consideration of all contract functions relating to education. Nothing in this Act shall be construed to require the provision of separate support services for Indian education.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b), shall—

- (1) monitor and evaluate Bureau education programs, and
- (2) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

However, in the case of boarding schools located off reservation operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

“Functions.”

(d) For the purpose of this section the term “functions” includes powers and duties.

#### IMPLEMENTATION

Publication in  
Federal Register.  
25 USC 2007.

SEC. 1127. Within six months after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made under section 1126.

#### ALLOTMENT FORMULA

Regulation.  
25 USC 2008.

SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau or contract school. In establishing such formula, the Secretary shall consider—

- (1) the number of Indian students served and size of the school;
- (2) special cost factors, such as—
  - (A) isolation of the school;
  - (B) need for special staffing, transportation, or educational programs;
  - (C) food and housing costs;
  - (D) overhead costs associated with administering contracted education functions; and
  - (E) maintenance and repair costs associated with the physical condition of the educational facilities;
- (3) 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;
- (4) the cost of bringing the school up to the level of the standards established under sections 1121 and 1122; and
- (5) such other relevant factors as the Secretary determines are appropriate.

(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau and contract schools, shall be allotted pro rata in accordance with the formula established under subsection (a), except that, in the case of any such school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an

average payment per Indian child attending such school in that district which is higher than the amount which would be received by such Bureau or contract school under such formula for each Indian child attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) Notwithstanding subsection (b), the Secretary shall provide funds for the general local operation of Bureau and contract schools where necessitated by cases of emergencies or unforeseen contingencies not otherwise provided for under subsection (a). Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress.

Funds, provision.

Report to Congress.

UNIFORM DIRECT FUNDING AND SUPPORT

Sec. 1129. (a) Within six months after the date of enactment of this Act, the Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau and contract schools. Such system shall allot funds, in accordance with section 1128, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made.

Regulation.  
25 USC 2009.

(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such action by the local school board to the superintendent for education of the Bureau agency, and the superintendent may, for good cause and in writing to the local school board, overturn the action of the local school board.

Local financial plans.

Appeals.

(c) Funds for self-determination grants under section 104(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

25 USC 450h.

(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and he shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

Sec. 1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

25 USC 2010.

## EDUCATION PERSONNEL

25 USC 2011.  
5 USC 5101 *et*  
*seq.*, 5301, 6301  
*et seq.*

SEC. 1131. (a) (1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to leave, pay, and classification, and the sections relating to the appointment, promotion and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

(2) Paragraph (1) shall take effect one year after the date of enactment of this Act.

Regulations.

(b) Not later than the effective date of subsection (a) (2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

- (1) the establishment of education positions,
- (2) the establishment of qualifications for educators,
- (3) the fixing of basic compensation for educators and education positions,
- (4) the appointment of educators,
- (5) the discharge of educators,
- (6) the entitlement of educators to compensation,
- (7) the payment of compensation to educators,
- (8) the conditions of employment of educators,
- (9) the length of the school year applicable to education positions described in subsection (n) (1) (A),
- (10) the leave system for educators, and
- (11) such other matters as may be appropriate.

Educator  
qualifications,  
requirements.

(c) (1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

(A) (i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b) (2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d) (2) (A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subsection (c) (1) (A) (ii) or that such individual has applied at the national level for an education position.

(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

Educator  
appointments,  
requirements.

(d) (1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

(A) (i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (c) (1) (A) (ii).

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board for the school shall be consulted, and that subject to subsection (d) (2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to subsection (d) (3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

(2) (A) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual. Appeals.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

(3) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office. Upon such an appeal, the Director of the Office may, for good cause and in writing to the agency school board, overturn the determination of the agency school board with respect to the employment of such individual.

(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the indi-

Education  
position  
application  
statement.

vidual had applied at the national level for an education position in the Bureau, if the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c) (1) (A) (ii) to the position to which such individual was appointed.

(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

**Educator  
discharge and  
employment  
requirements.**

(e) (1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

(B) that no educator may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process; and

(C) educators employed in Bureau schools shall be notified sixty days prior to the end of the school year whether their employment contract will be renewed for the coming year.

**Notification.**

(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau. Upon such an appeal, the agency superintendent for education may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

**Appeal.**

**Recommendations.**

(3) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent of education of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

**Waiver.**

(f) (1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, where such a waiver is in writing deemed to be a necessity by the tribal organization, except that this shall in no way relieve the Bureau of its responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if it is intended to fill a vacancy (no matter how such vacancy is created).

**Definitions.**

(2) For purposes of this subsection, the term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688); or

(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1139, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(3) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b); 88 Stat. 2295).

(g) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a) (1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

5 USC 5101 *et seq.*

(h) (1) The Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

Compensation.

5 USC 5332 *note.*

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a postdifferential not to exceed 25 per centum of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

(i) Any individual—

(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o) (2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b) (10), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551 (a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b) (10) shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b) (10) shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(1) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract

between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(m) In the case of any educator employed in an education position described in subsection (n) (1) (A) who—

(1) is employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g) (2) or (g) (3), section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

**Definitions.**

(n) For the purpose of this section—

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a Bureau school and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position of agency superintendent for education.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(o) (1) This section shall apply with respect to any individual hired after the effective date of subsection (a) (2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of subsection (a) (2) in an education position, or such individual's right to receive the compensation attached to such position.

(2) Any individual employed in an education position immediately before the effective date of subsection (a) (2) may, within five years of the date of enactment of this Act, make an irrevocable election to be covered under the provisions of this section.

**MANAGEMENT INFORMATION SYSTEM**

**Establishment.**  
25 USC 2012.

SEC. 1132. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include but shall not be limited to—

(1) student enrollment;

- (2) curriculum;
- (3) staff;
- (4) facilities;
- (5) community demographics; and
- (6) student assessment information.

## BUREAU EDUCATION POLICIES

SEC. 1133. Within one hundred and eighty days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within one year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

Publication in Federal Register and submittals to Bureau, tribes, and congressional committees.  
25 USC 2013.

## UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 1134. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

Report to Congress.  
25 USC 2014.

## RECRUITMENT OF INDIAN EDUCATORS

SEC. 1135. The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

Policy and plan.  
25 USC 2015.

## ANNUAL REPORT

SEC. 1136. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

Submittal to congressional committees.  
25 USC 2016.

## RIGHTS OF INDIAN STUDENTS

SEC. 1137. Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to insure the constitutional and civil rights of Indian students attending Bureau schools, including, but not limited to, their right to privacy under the laws of the United States, their right to freedom of religion and expression and their right to due process in connection with disciplinary actions, suspensions, and expulsions.

Rules and regulations.  
25 USC 2017.

## REGULATIONS

SEC. 1138. Regulations required to be adopted under sections 1126 through 1137 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

25 USC 2018.  
20 USC 1232.

## DEFINITIONS

25 USC 2019.

SEC. 1139. For the purpose of this title—

(1) the term “agency school board” means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be 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;

(2) the term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term “Commissioner” means the Commissioner of Education;

(4) the term “financial plan” means a plan of services to be provided by each Bureau school;

(5) 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 Indian tribes;

(6) 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, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(7) 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 in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

(8) the term “Secretary” means the Secretary of the Interior;

(9) the term “supervisor” means the individual in the position of ultimate authority at a Bureau school; and

(10) the term “tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

43 USC 1601  
note.

## PART C—INDIAN EDUCATION PROVISIONS

## EXTENSION OF AUTHORIZATION

20 USC 3385.  
*Ante*, p. 2284.

SEC. 1141. (a) Section 1005(g) of the Elementary and Secondary Education Act of 1965 as redesignated by section 801 of this Act, is amended by striking out “July 1, 1978” and inserting in lieu thereof “October 1, 1983”.

(b) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress)) as added by the Indian

Education Act, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 241bb.

(c) (1) Section 422 of the Indian Education Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 3385a.

(2) Section 423(a) of such Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 3385b.

(3) Section 442(a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 1221g.

#### CULTURALLY RELATED ACADEMIC NEEDS

SEC. 1142. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241aa.

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both,". 20 USC 241cc.

#### DEMONSTRATION PROJECTS

SEC. 1143. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection:

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children."

Grants,  
appropriation  
authorization.  
20 USC 241bb.

#### PARENT COMMITTEES

SEC. 1144. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241dd.

(1) by inserting "(including persons acting in loco parentis other than school administrators or officials)" after "Indian children" in paragraph (2) (B) (i) and after "children participating in the program" in paragraph (2) (B) (ii);

(2) by inserting ", including policies and procedures relating to the hiring of personnel," after "policies and procedures" in paragraph (2) (C); and

(3) by striking out the period at the end of paragraph (2) (C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

“(3) provides that the parent committee formed pursuant to paragraph (2) (B) (ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.”.

## ALLOCATION ADJUSTMENT

20 USC 241ff. SEC. 1145. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

“(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallocate, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.”.

20 USC 241bb.

## TRIBAL SCHOOLS

20 USC  
241bb-1.

SEC. 1146. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

25 USC 450 note.

## DEFINITION STUDY

20 USC 1221h.

SEC. 1147. Section 453 of the Indian Education Act is amended by inserting “(a)” immediately after “Sec. 453.” and by adding at the end thereof the following new subsection:

Consultation and  
submittal to  
Congress.

“(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

“(1) an identification of the total number of Indian children being served under this title;

“(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

“(3) an evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

“(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

“(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.”.

## DATA COLLECTION

SEC. 1148. Section 453 of the Indian Education Act is amended by inserting after subsection (b), as added by section 1147: 20 USC 1221h.

“(c) In establishing a child’s eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

“(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant’s parents or grandparents, from whom the applicant claims eligibility;

“(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

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

“(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

“(5) any other information which the Secretary deems necessary to provide an accurate program profile.”.

## PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

Annual audit,  
report to  
Congress.  
20 USC 241aa  
note.  
Information  
falsification.

## AMENDMENTS TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1150. (a) Section 1005(c)(1)(E) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting “and gifted and talented Indian children” after “handicapped”.

20 USC 3385.  
*Ante*, p. 2284.

20 USC 3385.  
Ante, p. 2284.

(b) (1) Section 1005(c) (1) (F) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

“(F) early childhood programs, including kindergarten;”.

(2) (A) Section 1005(d) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended—

(i) by striking out “children” in paragraphs (1) and (2) of such section and by inserting in lieu thereof “students” each time it appears; and

(ii) by inserting after “teachers” a comma and the following: “administrators”.

(B) The section heading of section 1005 of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

“IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS”

(c) (1) Section 1005(e) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended as follows:

“(e) (1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

“(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

“(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b) (2) (B) (ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

“(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

“(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.”.

(2) Section 1005(b) of such Act, as redesignated by section 801 of this Act, is amended by striking out “Indian tribes, organizations, and institutions” and inserting in lieu thereof “Indian tribes, Indian organizations, and Indian institutions”.

Regional  
information  
centers,  
establishment,  
grants and  
contracts.

20 USC 241aa  
note.  
20 USC 1211a.

20 USC 241dd.

(d) Section 1005(f) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following:

20 USC 3385.  
*Ante*, p. 2284.

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds."

(e) Section 1005(g) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated \$8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year."

Appropriation  
authorization.

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting "estimated to be" after "equal to the amount".

20 USC 241ee.

#### DEFINITION OF INDIAN

SEC. 1151. Section 453(1) of the Indian Education Act is amended by striking out "now or in the future".

20 USC 1221h.

#### TEACHER TRAINING AND FELLOWSHIPS

SEC. 1152. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out "children" and inserting in lieu thereof "people".

20 USC 3385a.

(b) Section 423(a) of the Indian Education Act is amended—

20 USC 3385b.

(1) by striking out "less than three, nor"; and

(2) by striking out "professional or graduate degree in engineering, medicine, law, business, forestry, and related field" and inserting in lieu thereof "postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields."

### TITLE XII—ADMINISTRATIVE PROVISIONS

#### PART A—EQUALIZATION

##### DATA COLLECTION

SEC. 1201. Section 406 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

20 USC  
1221e-1.

"(i) (1) In addition to its other responsibilities, the National Center for Education Statistics shall, in consultation with the Office of Education, collect uniform data from the States on financing of ele-

Consultation.