

Health Service, except for the eligibility provisions of section 450j(g) of this title and regulations promulgated under this section.

(Pub. L. 93-638, title V, §517, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

§ 458aaa-17. Appeals

In any appeal (including civil actions) involving decisions made by the Secretary under this part, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

- (1) the validity of the grounds for the decision made; and
- (2) that the decision is fully consistent with provisions and policies of this part.

(Pub. L. 93-638, title V, §518, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

§ 458aaa-18. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as may be necessary to carry out this part.

(b) Availability of appropriations

Notwithstanding any other provision of this subchapter, the provision of funds under this subchapter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this subchapter.

(Pub. L. 93-638, title V, §519, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 731.)

PART F—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION

CODIFICATION

This part is comprised of title V of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2936, as amended. Another title V of Pub. L. 93-638 was added by Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 712, and is classified to part E (§458aaa et seq.) of this subchapter.

§ 458bbb. National Fund for Excellence in American Indian Education

(a) In general

As soon as practicable after December 27, 2000, the Secretary of the Interior shall establish, under the laws of the District of Columbia and in accordance with this part, a foundation to be known as the “National Fund for Excellence in American Indian Education” (hereinafter referred to as the “Foundation”).

(b) Perpetual existence

Except as otherwise provided, the Foundation shall have perpetual existence.

(c) Nature of corporation

The Foundation shall be a charitable and non-profit federally chartered corporation and shall not be an agency or instrumentality of the United States.

(d) Place of incorporation and domicile

The Foundation shall be incorporated and domiciled in the District of Columbia.

(e) Purposes

The purposes of the Foundation shall be—

(1) to encourage, accept, and administer private gifts of real and personal property or any income therefrom or other interest therein for the benefit of, or in support of, the mission of the Office of Indian Education Programs of the Bureau of Indian Affairs (or its successor office);

(2) to undertake and conduct such other activities as will further the educational opportunities of American Indians who attend a Bureau funded school; and

(3) to participate with, and otherwise assist, Federal, State, and tribal governments, agencies, entities, and individuals in undertaking and conducting activities that will further the educational opportunities of American Indians attending Bureau funded schools.

(f) Board of Directors

(1) In general

The Board of Directors shall be the governing body of the Foundation. The Board may exercise, or provide for the exercise of, the powers of the Foundation.

(2) Selection

The number of members of the Board, the manner of their selection (including the filling of vacancies), and their terms of office shall be as provided in the constitution and bylaws of the Foundation. However, the Board shall have at least 11 members, two of whom shall be the Secretary and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members, and the initial voting members of the Board shall be appointed by the Secretary not later than 6 months after the date that the Foundation is established and shall have staggered terms (as determined by the Secretary).

(3) Qualification

The members of the Board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.

(4) Compensation

Members of the Board shall not receive compensation for their services as members, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) Officers

(1) In general

The officers of the Foundation shall be a secretary, elected from among the members of the Board, and any other officers provided for in the constitution and bylaws of the Foundation.

(2) Secretary of Foundation

The secretary shall serve, at the direction of the Board, as its chief operating officer and shall be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.