

## REFERENCES IN TEXT

Section 314 of Pub. L. 101-512, referred to in subsec. (a), is section 314 of Pub. L. 101-512, as amended, which is set out as a note under section 450f of this title.

**§ 458aaa-16. Regulations****(a) In general****(1) Promulgation**

Not later than 90 days after August 18, 2000, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this part.

**(2) Publication of proposed regulations**

Proposed regulations to implement this part shall be published in the Federal Register by the Secretary no later than 1 year after August 18, 2000.

**(3) Expiration of authority**

The authority to promulgate regulations under paragraph (1) shall expire 21 months after August 18, 2000.

**(b) Committee****(1) In general**

A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this subchapter.

**(2) Requirements**

The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

**(c) Adaptation of procedures**

The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

**(d) Effect**

The lack of promulgated regulations shall not limit the effect of this part.

**(e) Effect of circulars, policies, manuals, guidances, and rules**

Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian 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—TRANSFERRED

## CODIFICATION

This part was formerly 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, which was redesignated title VIII by Pub. L. 111-211, title II, §231(d)(1), July 29, 2010, 124 Stat. 2278, and transferred to part H (§458ddd et seq.) of this subchapter. Title V of Pub. L. 93-638, as added by Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 712, is classified to part E (§458aaa et seq.) of this subchapter.

**§ 458bbb to 458bbb-2. Transferred**

## CODIFICATION

Section 458bbb, Pub. L. 93-638, title V, §501, as added Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2936; amended Pub. L. 108-267, §1(a),(b)(2), July 2, 2004, 118 Stat. 797, was renumbered section 801 of Pub. L. 93-638 and transferred to section 458ddd of this title.

Section 458bbb-1, Pub. L. 93-638, title V, §502, as added Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2938, was renumbered section 802 of Pub. L. 93-638 and transferred to section 458ddd-1 of this title.

Section 458bbb-2, Pub. L. 93-638, title V, §503, as added Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2938, was renumbered section 803 of Pub. L. 93-638 and transferred to section 458ddd-2 of this title.

## PART G—INDIAN LAW ENFORCEMENT

## FOUNDATION

**§ 458ccc. Definitions**

In this part:

**(1) Board**

The term “Board” means the Board of Directors of the Foundation.

**(2) Bureau**

The term “Bureau” means the Office of Justice Services of the Bureau of Indian Affairs.

**(3) Committee**

The term “Committee” means the Committee for the Establishment of the Indian Law Enforcement Foundation established under section 458ccc-1(e)(1) of this title.

**(4) Foundation**

The term “Foundation” means the Indian Law Enforcement Foundation established under section 458ccc-1 of this title.

**(5) Secretary**

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

(Pub. L. 93-638, title VII, §701, as added Pub. L. 111-211, title II, §231(c), July 29, 2010, 124 Stat. 2274.)

**§ 458ccc-1. Indian Law Enforcement Foundation****(a) Establishment****(1) In general**

As soon as practicable after July 29, 2010, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this part, a foundation, to be known as the “Indian Law Enforcement Foundation”.

**(2) Funding determinations**

No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

(A) be taken into consideration for purposes of determining Federal appropriations relating to the provision of public safety or justice services to Indians; or

(B) otherwise limit, diminish, or affect the Federal responsibility for the provision of public safety or justice services to Indians.

**(b) Nature of corporation**

The Foundation—

(1) shall be a charitable and nonprofit federally chartered corporation; and

(2) shall not be an agency or instrumentality of the United States.

**(c) Place of incorporation and domicile**

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

**(d) Duties**

The Foundation shall—

(1) encourage, accept, and administer, in accordance with the terms of each donation, private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, public safety and justice services in American Indian and Alaska Native communities; and

(2) assist the Office of Justice Services of the Bureau of Indian Affairs and Indian tribal governments in funding and conducting activities and providing education to advance and support the provision of public safety and justice services in American Indian and Alaska Native communities.

**(e) Committee for the Establishment of the Indian Law Enforcement Foundation****(1) In general**

The Secretary shall establish a committee, to be known as the “Committee for the Establishment of the Indian Law Enforcement Foundation”, to assist the Secretary in establishing the Foundation.

**(2) Duties**

Not later than 180 days after July 29, 2010, the Committee shall—

(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the date on which the Board is established;

(C) establish the constitution and initial bylaws of the Foundation;

(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

**(f) Board of Directors****(1) In general**

The Board of Directors shall be the governing body of the Foundation.

**(2) Powers**

The Board may exercise, or provide for the exercise of, the powers of the Foundation.

**(3) Selection****(A) In general**

Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

**(B) Requirements****(i) Number of members**

The Board shall be composed of not less than 7 members.

**(ii) Initial voting members**

The initial voting members of the Board—

(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

(II) shall serve for staggered terms.

**(iii) Qualification**

The members of the Board shall be United States citizens with knowledge or experience regarding public safety and justice in Indian and Alaska Native communities.

**(C) Compensation**

A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

**(g) Officers****(1) In general**

The officers of the Foundation shall be—

(A) a Secretary, elected from among the members of the Board; and

(B) any other officers provided for in the constitution and bylaws of the Foundation.

**(2) Chief operating officer****(A) Secretary**

Subject to subparagraph (B), the Secretary of the Foundation may serve, at the direction of the Board, as the chief operating officer of the Foundation.

**(B) Appointment**

The Board may appoint a chief operating officer in lieu of the Secretary of the Foundation under subparagraph (A), who shall serve at the direction of the Board.

**(3) Election**

The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

**(h) Powers**

The Foundation—

(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

(2) may adopt and alter a corporate seal;

(3) may enter into contracts;

(4) may acquire (through gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

(5) may sue and be sued; and

(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

**(i) Principal office****(1) In general**

The principal office of the Foundation shall be located in the District of Columbia.

**(2) Activities; offices**

The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

**(j) Service of process**

The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

**(k) Liability of officers, employees, and agents****(1) In general**

The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of the authority of the officers, employees, and agents.

**(2) Personal liability**

A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

**(l) Restrictions****(1) Limitation on spending**

Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed the per-

centage described in paragraph (2) of the sum of—

(A) the amounts transferred to the Foundation under subsection (n) during the preceding fiscal year; and

(B) donations received from private sources during the preceding fiscal year.

**(2) Percentages**

The percentages referred to in paragraph (1) are—

(A) for the first 2 fiscal years described in that paragraph, 25 percent;

(B) for the following fiscal year, 20 percent; and

(C) for each fiscal year thereafter, 15 percent.

**(3) Appointment and hiring**

The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

**(4) Status**

A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

**(m) Audits**

The Foundation shall comply with section 10101 of title 36 as if the Foundation were a corporation under part B of subtitle II of that title.

**(n) Funding**

For each of fiscal years 2011 through 2015, out of any unobligated amounts available to the Secretary, the Secretary may use to carry out this section not more than \$500,000.

(Pub. L. 93-638, title VII, §702, as added Pub. L. 111-211, title II, §231(c), July 29, 2010, 124 Stat. 2274.)

**§ 458ccc-2. Administrative services and support****(a) Provision of support by Secretary**

Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

(1) may provide personnel, facilities, and other administrative support services to the Foundation;

(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

(3) shall require and accept reimbursements from the Foundation for—

(A) services provided under paragraph (1); and

(B) funds provided under paragraph (2).

**(b) Reimbursement**

Reimbursements accepted under subsection (a)(3)—

(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

**(c) Continuation of certain services**

The Secretary may continue to provide facilities and necessary support services to the Foun-

ation after the termination of the 5-year period specified in subsection (a) if the facilities and services are—

- (1) available; and
- (2) provided on reimbursable cost basis.

(Pub. L. 93–638, title VII, §703, as added Pub. L. 111–211, title II, §231(c), July 29, 2010, 124 Stat. 2277.)

PART H—NATIONAL FUND FOR EXCELLENCE IN  
AMERICAN INDIAN EDUCATION  
CODIFICATION

This part is comprised of title VIII, formerly title V, of Pub. L. 93–638, which was formerly classified to part F (§458bbb et seq.) of this subchapter prior to redesignation by Pub. L. 111–211, title II, §231(d)(1), July 29, 2010, 124 Stat. 2278.

**§ 458ddd. 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.

**(3) Election**

The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the Foundation.

**(h) Powers**

The Foundation—

- (1) shall adopt a constitution and bylaws for the management of its property and the regulation of its affairs, which may be amended;
- (2) may adopt and alter a corporate seal;
- (3) may make contracts, subject to the limitations of this subchapter;
- (4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;
- (5) may sue and be sued; and
- (6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

**(i) Principal office**

The principal office of the Foundation shall be in the District of Columbia. However, the activities of the Foundation may be conducted, and offices may be maintained, throughout the