

with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college or university to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) Failure to use facility in approved manner; title to vest in United States; settlement

If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under section 13 of this title) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) Religious use

No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) "Construction" and "academic facilities" defined

For the purposes of this section—

(1) the term "construction" includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 1132e-1(2)¹ of title 20); and

(2) the term "academic facilities" has the meaning provided such term under section 1132e-1(1)¹ of title 20.

(Pub. L. 95-471, title I, §113, formerly §112, Oct. 17, 1978, 92 Stat. 1329; renumbered §113 and amended Pub. L. 98-192, §§4(a)(1), 12, Dec. 1, 1983, 97 Stat. 1336, 1340; Pub. L. 99-428, §6(b), Sept. 30, 1986, 100 Stat. 983; Pub. L. 105-244, title I, §102(a)(8)(C), title IX, §901(b)(5), (7), (12), Oct. 7, 1998, 112 Stat. 1619, 1828.)

¹ See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Section 1132e-1 of title 20, referred to in subsec. (f), was omitted in the general revision of subchapter VII (§1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99-498, title VII, §701, Oct. 17, 1986, 100 Stat. 1520.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college".

Subsec. (b). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college" in introductory provisions.

Subsec. (b)(2). Pub. L. 105-244, §§102(a)(8)(C), 901(b)(7), substituted "section 1001" for "section 1141(a)" and "such college or university" for "such college".

Subsec. (c)(1). Pub. L. 105-244, §901(b)(5), substituted "college or university" for "community college" in two places.

Subsec. (c)(2). Pub. L. 105-244, §901(b)(5), (7), (12), in introductory provisions, substituted "controlled college or university" for "controlled community college" and "such college or university" for "such college" and, in subpar. (E), substituted "the college or university" for "the college".

1986—Subsec. (a). Pub. L. 99-428 substituted "Secretary under" for "Administrator of General Services under".

1983—Pub. L. 98-192 amended section generally, substituting provision authorizing grants for construction of new facilities, establishing eligibility requirements for grants, maximum amounts of grants, waiver of amount restriction, results of failure to use facilities in an approved manner, and prohibition of religious use of such facilities, and defining "construction" and "academic facilities" for provision requiring Secretary of the Interior to conduct a detailed survey and study of academic facilities needs of tribally controlled community colleges and report to Congress not later than Nov. 1, 1979, the results of such survey and study.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

§ 1814. Miscellaneous provisions

(a) Eligibility of Navajo Tribe

The Navajo Tribe shall not be eligible to participate under the provisions of this subchapter.

(b) Discriminatory practices prohibited

(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this subchapter held by an institution determined to be in violation of paragraph (1).

(Pub. L. 95-471, title I, §114, formerly §113, Oct. 17, 1978, 92 Stat. 1329; renumbered §114, Pub. L. 98-192, §4(a)(1), Dec. 1, 1983, 97 Stat. 1336.)

§ 1815. Rules and regulations

(a) Consultation with national Indian organizations

Within four months from October 17, 1978, the Secretary shall, to the extent practicable, con-