

**TITLE 25 - INDIANS****CHAPTER 20 - TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ASSISTANCE****§ 1801. Definitions**

- (a) For purposes of this chapter, the term—
- (1) “Indian” means a person who is a member of an Indian tribe;
  - (2) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;
  - (3) “Secretary”, unless otherwise designated, means the Secretary of the Interior;
  - (4) “tribally controlled college or university” means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;
  - (5) “institution of higher education” means an institution of higher education as defined by section 1001<sup>1</sup> of title 20, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A)<sup>2</sup> of such section shall be deemed to refer to the Secretary of the Interior;
  - (6) “national Indian organization” means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education;
  - (7) “Indian student count” means a number equal to the total number of Indian students enrolled in each tribally controlled college or university, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and
  - (8) “satisfactory progress toward a degree or certificate” has the meaning given to such term by the institution at which the student is enrolled.
- (b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a) of this section:
- (1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.
  - (2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.
  - (3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student’s ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student’s aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.
  - (4) Indian students earning credits in any continuing education program of a tribally controlled college or university shall be included in determining the sum of all credit hours.
  - (5) Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled college or university’s system for providing credit for participation in such program.

- (6) No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate shall be taken into account.

### Footnotes

<sup>1</sup> So in original. Probably should be section “1001(a)”.

<sup>2</sup> So in original. Probably should be “(5)”.

(Pub. L. 95–471, § 2, formerly § 1, Oct. 17, 1978, 92 Stat. 1325; renumbered § 2 and amended Pub. L. 98–192, § 1, Dec. 1, 1983, 97 Stat. 1335; Pub. L. 99–428, § 3, Sept. 30, 1986, 100 Stat. 982; Pub. L. 105–244, title I, § 102(a)(8)(B), title IX, § 901(b)(5), (9), Oct. 7, 1998, 112 Stat. 1619, 1828.)

### References in Text

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, known as the Tribally Controlled College or University Assistance Act of 1978, which enacted this chapter and section 640c–1 of this title, amended section 640c of this title, and enacted provisions set out as notes under sections 640a, 640c–1, and 1801 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Alaskan Native Claims Settlement Act, referred to in subsec. (a)(2), probably means the Alaska Native Claims Settlement Act, Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

### Amendments

1998—Subsec. (a)(4). Pub. L. 105–244, § 901(b)(5), substituted “college or university” for “community college”.

Subsec. (a)(5). Pub. L. 105–244, § 102(a)(8)(B), substituted “section 1001” for “section 1141 (a)”.

Subsec. (a)(7). Pub. L. 105–244, § 901(b)(5), substituted “college or university” for “community college”.

Subsec. (b)(4). Pub. L. 105–244, § 901(b)(5), substituted “college or university” for “community college”.

Subsec. (b)(5). Pub. L. 105–244, § 901(b)(9), substituted “college or university’s” for “community college’s”.

1986—Subsec. (a)(8). Pub. L. 99–428, § 3(a), added par. (8).

Subsec. (b)(3) to (6). Pub. L. 99–428, § 3(b), added par. (3), redesignated former pars. (3) to (5) as (4) to (6), respectively, and in par. (6) struck out “, in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance,” after “certificate”.

1983—Subsec. (a). Pub. L. 98–192, § 1(1), designated existing provisions as subsec. (a) and inserted introductory provision preceding par. (1).

Subsec. (a)(1). Pub. L. 98–192, § 1(2), struck out “and is eligible to receive services from the Secretary of the Interior” after “Indian tribe”.

Subsec. (a)(5). Pub. L. 98–192, § 1(3), inserted “and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior”.

Subsec. (a)(7). Pub. L. 98–192, § 1(4), substituted provision defining “Indian student count” to mean a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined as consistent with subsec. (b) of this section on the basis of the quotient of the sum of the credit hours of all Indians so enrolled, divided by twelve for provision defining “full-time equivalent Indian student” to mean the number of Indians enrolled full-time and the full-time equivalent of the number of Indians enrolled part-time, determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve, calculated on the basis of registrations as in effect at the conclusion of the sixth week of an academic term.

Subsec. (b). Pub. L. 98–192, § 1(4), added subsec. (b).

### 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.

### **Short Title of 1990 Amendment**

Section 401 of title IV of Pub. L. 95–471, as added by Pub. L. 101–392, title III, § 312, Sept. 25, 1990, 104 Stat. 804, provided that: “This title [enacting subchapter III of this chapter] may be cited as the ‘Tribal Economic Development and Technology Related Education Assistance Act of 1990.’”

### **Short Title of 1986 Amendment**

Section 1 of Pub. L. 99–428 provided that: “This Act [amending this section and sections 640c–1, 1808 to 1810, 1812, 1813, and 1836 of this title] may be cited as the ‘Tribally Controlled Community College Assistance Amendments of 1986.’”

### **Short Title**

Pub. L. 95–471, § 1, Oct. 17, 1978, 92 Stat. 1325, as amended by Pub. L. 105–244, title IX, § 901(b)(1), Oct. 7, 1998, 112 Stat. 1827, provided: “That this Act [enacting this chapter and section 640c–1 of this title, amending section 640c of this title, and enacting provisions set out as notes under sections 640a and 640c–1 of this title] may be cited as the ‘Tribally Controlled College or University Assistance Act of 1978.’”

### **Additional Conforming Amendments**

Pub. L. 105–244, title IX, § 901(c), Oct. 7, 1998, 112 Stat. 1828, provided that:

“(1) Recommended legislation.—The Secretary of Education shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by subsection (b) [see Tables for classification].

“(2) Submission to congress.—Not later than 6 months after the effective date of this title [see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of Title 20, Education], the Secretary of Education shall submit the recommended legislation referred to under paragraph (1).”

### **References to Tribally Controlled Community College Assistance Act of 1978**

Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828, provided that: “Any reference to a section or other provision of the Tribally Controlled Community College Assistance Act of 1978 shall be deemed to be a reference to the Tribally Controlled College or University Assistance Act of 1978.”

### **Executive Order No. 13021**

Ex. Ord. No. 13021, Oct. 19, 1996, 61 F.R. 54929, as amended by Ex. Ord. No. 13104, Oct. 19, 1998, 63 F.R. 56535, which established the President’s Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities in the Department of Education and required a Five-Year Federal Plan regarding tribal colleges and universities, was revoked by Ex. Ord. No. 13270, § 10, July 3, 2002, 67 F.R. 45291, set out below.

### **Ex. Ord. No. 13270. Tribal Colleges and Universities**

Ex. Ord. No. 13270, July 3, 2002, 67 F.R. 45288, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. There is a unique relationship between the United States and Indian tribes, and a special relationship between the United States and Alaska Native entities. It is the policy of the Federal Government that this Nation’s commitment to educational excellence and opportunity must extend as well to the tribal colleges and universities (tribal colleges) that serve Indian tribes and Alaska Native entities. The President’s Board of Advisors on Tribal Colleges and Universities (the “Board”) and the White House Initiative on Tribal Colleges and Universities (WHITCU) established by this order shall ensure that this national policy regarding tribal colleges is carried out with direct accountability at the highest levels of the Federal Government.

Tribal colleges are both integral and essential to their communities. Often they are the only postsecondary institutions within some of our Nation’s poorest rural areas. They fulfill a vital role: in maintaining and preserving irreplaceable languages and cultural traditions; in offering a high-quality college education to younger students; and in providing job training and other career-building programs to adults and senior citizens. Tribal colleges provide crucial services in communities that continue to suffer high rates of unemployment and the resulting social and economic distress.

The Federal Government’s commitment to tribal colleges is reaffirmed and the private sector can and should contribute to the colleges’ educational and cultural missions.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 3, 2005 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Finally, postsecondary institutions can play a vital role in promoting excellence in early childhood, elementary, and secondary education. The Federal Government will therefore work to implement the innovations and reforms of the No Child Left Behind Act of 2001 (Public Law 107–110) [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301] in partnership with tribal colleges and their American Indian and Alaska Native communities.

Sec. 2. Definition of Tribal Colleges and Universities. Tribal colleges are those institutions cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note ), any other institution that qualifies for funding under the Tribally Controlled Community College Assistance Act of 1978 [now Tribally Controlled College or University Assistance Act of 1978] (25 U.S.C. 1801 et seq.), and Dine College, authorized in the Navajo Community College Assistance Act of 1978, Public Law 95–471, title II (25 U.S.C. 640a note ).

Sec. 3. Board of Advisors. (a) Establishment. There shall be established in the Department of Education a Presidential advisory committee entitled the President’s Board of Advisors on Tribal Colleges and Universities (the “Board”).

(b) Membership. The Board shall consist of not more than 15 members who shall be appointed by the President, one of whom shall be designated by the President as Chair. The Board shall include representatives of tribal colleges and may also include representatives of the higher, early childhood, elementary, and secondary education communities; tribal officials; health, business, and financial institutions; private foundations; and such other persons as the President deems appropriate.

(c) Functions. The Board shall provide advice regarding the progress made by Federal agencies toward fulfilling the purposes and objectives of this order. The Board also shall provide recommendations to the President, through the Secretary of Education (Secretary), on ways the Federal Government can help tribal colleges:

- (1) use long-term development, endowment building, and planning to strengthen institutional viability;
  - (2) improve financial management and security, obtain private-sector funding support, and expand and complement Federal education initiatives;
  - (3) develop institutional capacity through the use of new and emerging technologies offered by both the Federal and private sectors;
  - (4) enhance physical infrastructure to facilitate more efficient operation and effective recruitment and retention of students and faculty; and
  - (5) help implement the No Child Left Behind Act of 2001 [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301] and meet other high standards of educational achievement.
- (d) Meetings. The Board shall meet at least annually, at the request of the Secretary, to provide advice and consultation on tribal colleges and relevant Federal and private-sector activities, and to transmit reports and present recommendations.

Sec. 4. White House Initiative on Tribal Colleges and Universities. There shall be established in the Department of Education, Office of the Secretary, the White House Initiative on Tribal Colleges and Universities (WHITCU). The WHITCU shall:

- (a) provide the staff support for the Board;
- (b) assist the Secretary in the role of liaison between the executive branch and tribal colleges; and
- (c) serve the Secretary in carrying out the Secretary’s responsibilities under this order.

Sec. 5. Department and Agency Participation. Each participating executive department and agency (agency), as determined by the Secretary, shall appoint a senior official who is a full-time officer of the Federal Government and who is responsible for management or program administration. The official shall report directly to the agency head, or to the agency head’s designee, on agency activity under this order and serve as liaison to the WHITCU. To the extent permitted by law and regulation, each agency shall provide appropriate information as requested by the WHITCU staff pursuant to this order.

Sec. 6. Three-Year Federal Plan. (a) Content. Each agency identified by the Secretary shall develop and implement a Three-Year Plan of the agency’s efforts to fulfill the purposes of this order. These Three-Year Plans shall include annual performance indicators and appropriate measurable objectives for the agency. Among other relevant issues, the plans shall address how the agency intends to increase the capacity of tribal colleges to compete effectively for any available grants, contracts, cooperative agreements, and any other Federal resources, and to encourage tribal colleges to participate in Federal programs. The plans also may emphasize access to high-quality educational opportunities for economically disadvantaged Indian students, consistent with requirements of the No Child Left Behind Act of 2001 [see Short Title of 2002 Amendment note set out under 20 U.S.C. 6301]; the preservation and revitalization of tribal languages and cultural traditions; and innovative approaches to better link tribal colleges with early childhood, elementary, and secondary education programs. The agency’s performance indicators and objectives should be clearly reflected in the agency’s annual budget submission to the Office of Management and Budget. To facilitate the

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attainment of these performance indicators and objectives, the head of each agency identified by the Secretary, shall provide, as appropriate, technical assistance and information to tribal colleges regarding the program activities of the agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

(b) Submission. Each agency shall submit its Three-Year Plan to the WHITCU. In consultation with the Board, the WHITCU shall then review these Three-Year Plans and develop an integrated Three-Year Plan for Assistance to Tribal Colleges, which the Secretary shall review and submit to the President. Agencies may revise their Three-Year Plans within the three-year period.

(c) Annual Performance Reports. Each agency shall submit to the WHITCU an Annual Performance Report that measures the agency's performance against the objectives set forth in its Three-Year Plan. In consultation with the Board, the WHITCU shall review and combine Annual Performance Reports into one annual report, which shall be submitted to the Secretary for review, in consultation with the Office of Management and Budget.

Sec. 7. Private Sector. In cooperation with the Board, the WHITCU shall encourage the private sector to assist tribal colleges through increased use of such strategies as:

(a) matching funds to support increased endowments;

(b) developing expertise and more effective ways to manage finances, improve information systems, build facilities, and improve course offerings; and

(c) increasing resources for and training of faculty.

Sec. 8. Termination. The Board shall terminate 2 years after the date of this order unless the Board is renewed by the President prior to the end of that 2-year period.

Sec. 9. Administration. (a) Compensation. Members of the Board shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701-5707).

(b) Funding. The Board and the WHITCU shall be funded by the Department of Education.

(c) Administrative Support. The Department of Education shall provide appropriate administrative services and staff support for the Board and the WHITCU. With the consent of the Department of Education, other agencies participating in the WHITCU shall provide administrative support (including detailees) to the WHITCU consistent with statutory authority. The Board and the WHITCU each shall have a staff and shall be supported at appropriate levels commensurate with that of similar White House Initiative Offices.

(d) General Provisions. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary of Education in accordance with the guidelines issued by the Administrator of General Services.

Sec. 10. Revocation. Executive Order 13021 of October 19, 1996, as amended, is revoked.

George W. Bush.

## **Extension of Term of President's Board of Advisors on Tribal Colleges and Universities**

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Board of Advisors on Tribal Colleges and Universities extended until Sept. 30, 2005, by Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.